



Office of the City Manager

SUPPLEMENTAL AGENDA MATERIAL

Meeting Date: March 22, 2022

Item Number: 27

Item Description: [27. Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities](#)

Supplemental/Revision Submitted By: Berkeley City Auditor Jenny Wong

“Good of the City” Analysis:

The analysis below must demonstrate how accepting this supplement/revision is for the “good of the City” and outweighs the lack of time for citizen review or evaluation by the Council.

During the March 22 City Council meeting, the Berkeley City Auditor shall present the key findings and recommendations from our most recent audit, *Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities*. The audit takes a historic look at BPD’s budget, and explores why BPD’s overtime costs have increased in recent years.

The attached supplemental item consolidates the audit findings for City Council’s consideration, including BPD’s reliance on overtime to achieve minimum staffing, how officers frequently exceed overtime limits, the growth of security work for outside parties, among other findings. Council leadership may consult the supplemental item as an abridged resource and summary of the 54-page audit in their discussions with the City Auditor.

Accepting the supplemental item is for the “good of the City” given notable interest from the public and press on police conduct and overtime, and given City leadership interest in accelerating the proposed audit recommendations. Additionally, the time-sensitivity of the supplemental item outweighs the lack of time for citizen review or evaluation, as it will complement and streamline communication about item number 27 which will be discussed during the March 22 City Council meeting.

Consideration of supplemental or revised agenda material is subject to approval by a two-thirds roll call vote of the City Council. (BMC 2.06.070)

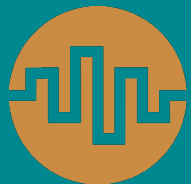
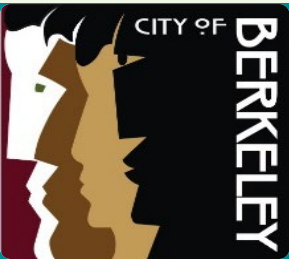
A minimum of **42 copies** must be submitted to the City Clerk for distribution at the Council meeting. This completed cover page must accompany every copy.

Copies of the supplemental/revised agenda material may be delivered to the City Clerk Department by 12:00 p.m. the day of the meeting. Copies that are ready after 12:00 p.m. must be delivered directly to the City Clerk at Council Chambers prior to the start of the meeting.

Supplements or Revisions submitted pursuant to BMC § 2.06.070 may only be revisions of the original report included in the Agenda Packet.

Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities

Berkeley City Council Meeting
March 22, 2022



BERKELEY CITY AUDITOR

Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities

Overview

- Objectives
- Background and Findings
- Recommendations
- Police Department Response



Why we did this audit:

- In our 2021 Audit Plan, we identified the Berkeley Police Department (BPD) budget as an area needing objective and independent analysis of how limited City funds are allocated.
- Overtime is the biggest reason why BPD spent more general funds than budgeted four out of the past five years.
- Interest from the Berkeley community in Police Overtime.



This report does not assess the adequacy of BPD's staffing levels or service delivery model.



Objectives:

1. *What policing functions does BPD's use of overtime cover?*
2. *Does BPD regularly assess minimum staffing levels to meet community needs?*
3. *Is BPD's management of overtime sufficient to reduce excessive uses of overtime?*
4. *Are BPD's agreements to provide work for outside entities transparent and in accordance with the law?*



What we found

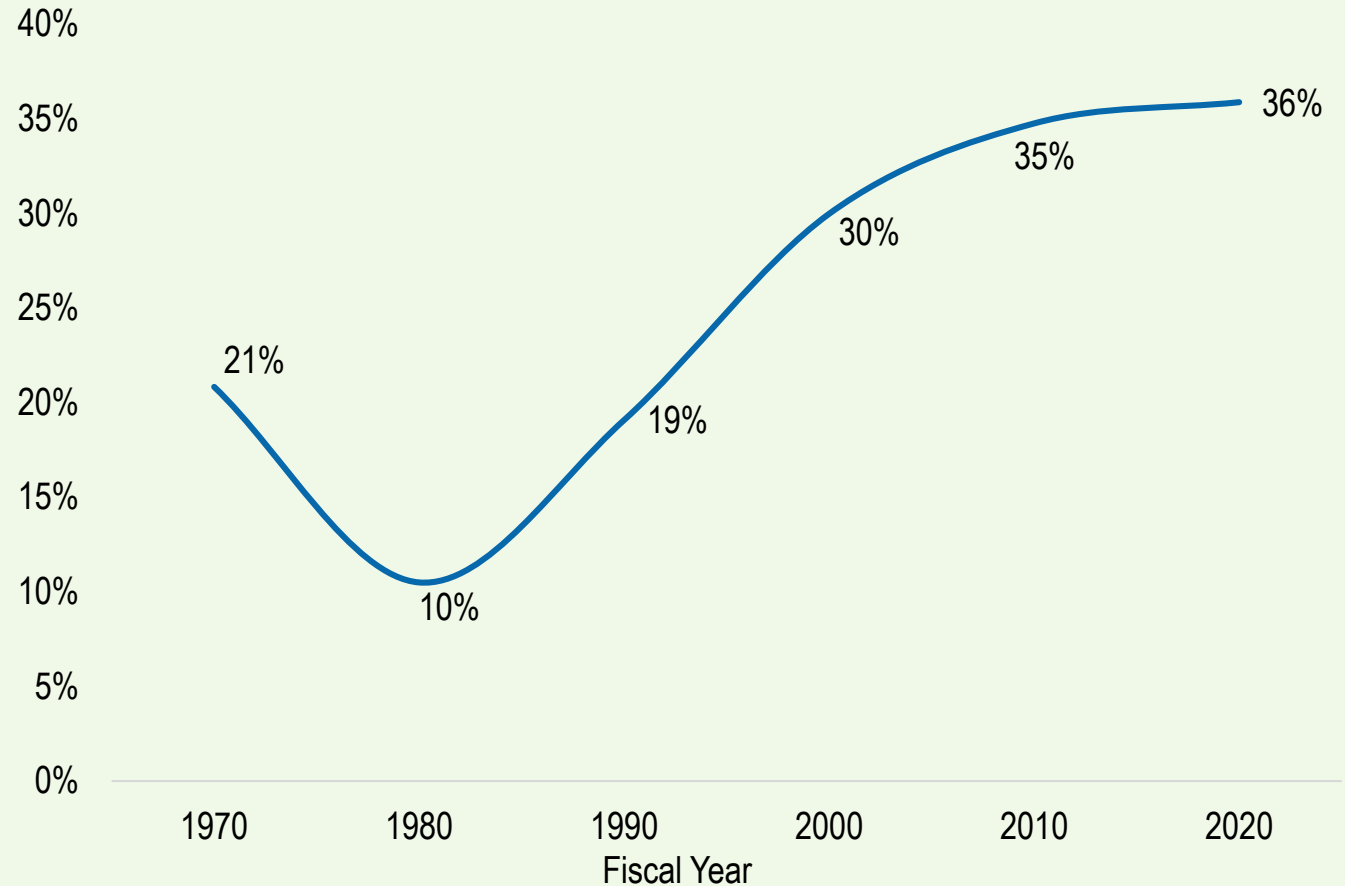
- Finding 1: Overtime is used to maintain minimum patrol staffing set by BPD.
- Finding 2: Minimum staffing levels in BPD's Patrol Unit could cause unnecessary overtime if not regularly updated.
- Finding 3: Officers work excessive overtime, increasing health and safety risks.
- Finding 4: BPD has no contracts for overtime security with outside entities.

- **Background: Analysis of the BPD budget**
- Finding 1: Overtime is used to maintain minimum patrol staffing set by BPD.
- Finding 2: Minimum staffing levels in BPD's Patrol Unit could cause unnecessary overtime if not regularly updated.
- Finding 3: Officers work excessive overtime, increasing health and safety risks.
- Finding 4: BPD has no contracts for overtime security with outside entities.

BPD receives more General Fund money than any other department in the City.

- In FY 2020, BPD Received **36 Percent** of the City's General Fund Budget.
- Police spending relative to total government expenditures remained at a relatively constant level.

BPD Budget as a Percent of General Fund Budget

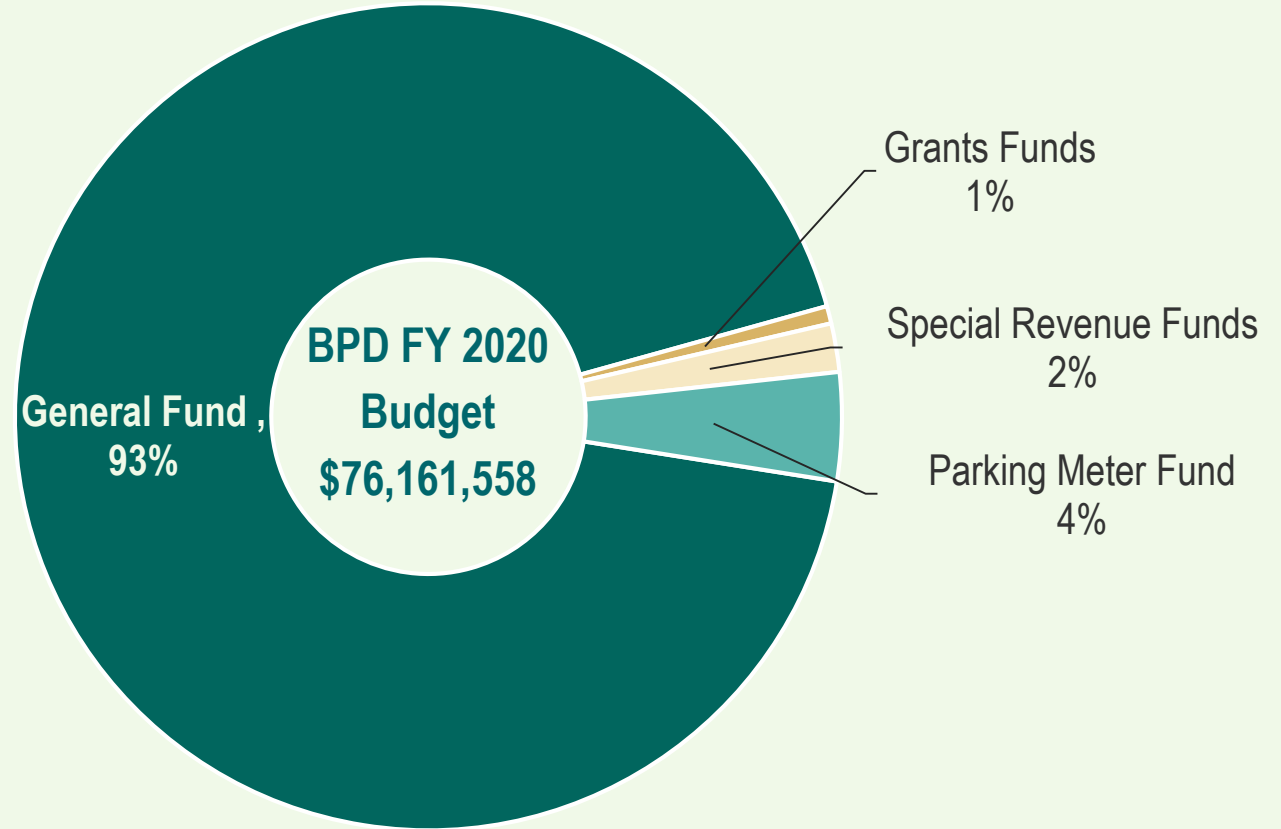


Source: FY 1970, 1980, 1990, 2000, 2010, and 2020 Adopted City Budgets
See page 6 of the report for details.

Most Of BPD's Budget Comes From The General Fund.

BPD Funding Sources, FY 2020

- The General Fund made up **93 percent** of the BPD Budget in FY 2020.



Source: FY 2020 Revised Budget Data.
See Page 6 and Appendix I of the report for details.

BPD’s budget grew significantly, from \$21.9 million in 1970* to \$75 million in 2020.

- With a fringe benefit rate at **105.6%** of an officer’s salary, it is always cheaper to have an officer work overtime rather than hire a new officer.

Police and Fire Composite Fringe Benefit Rates, 2016 and 2020

Year	Sworn Police	Sworn Fire
2016	89.68%	77.86%
2020	105.6%	88.28%

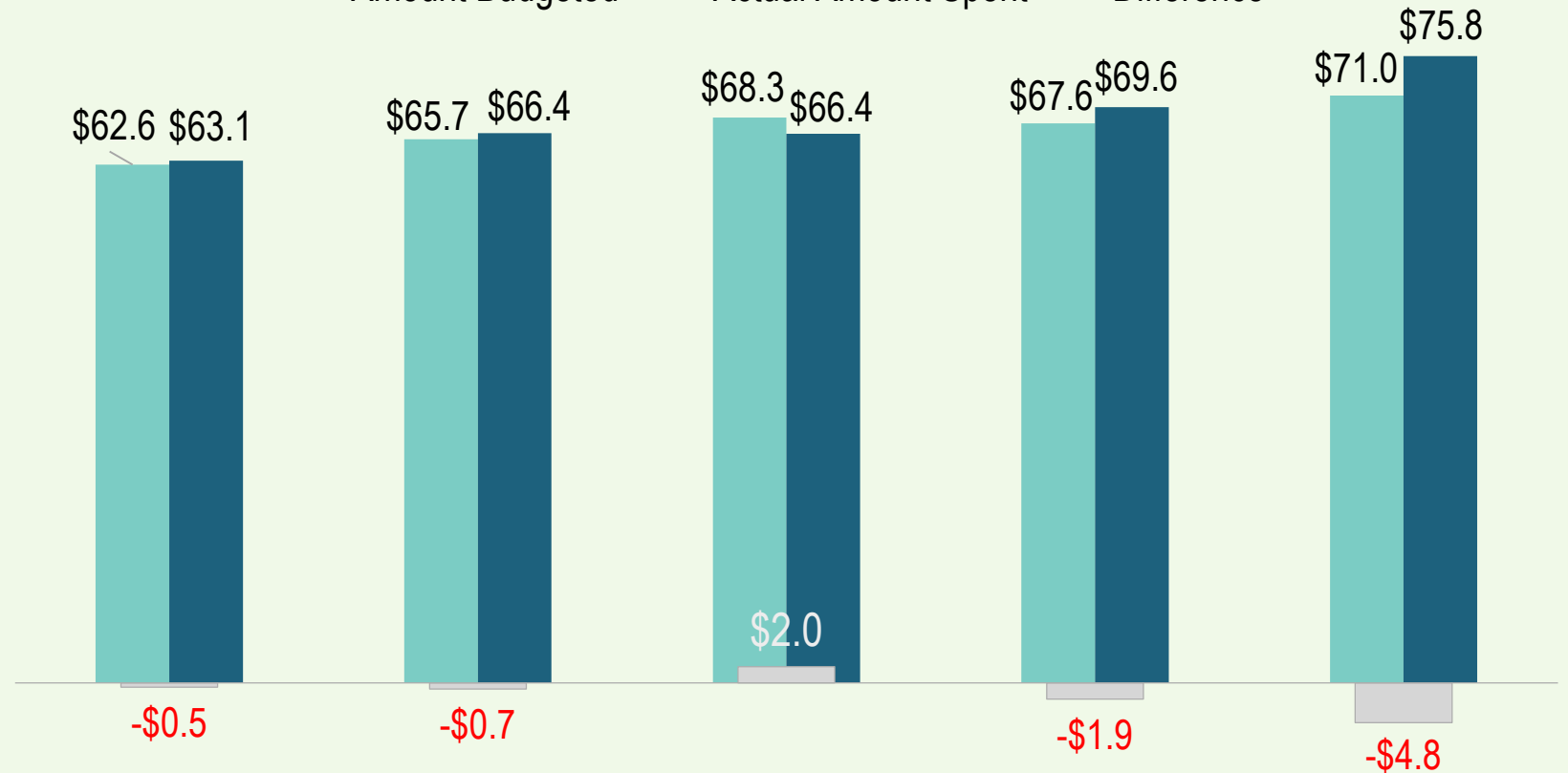
Source: City of Berkeley compensation matrices
See page 7 of the report for details.

**Adjusted to 2020 purchasing power*

BPD has exceeded its General Fund budget four out of the last five years.

**BPD General Fund Budget and Actual Expenditures
FY 2016-2020 in Millions of Dollars**

■ Amount Budgeted ■ Actual Amount Spent ■ Difference

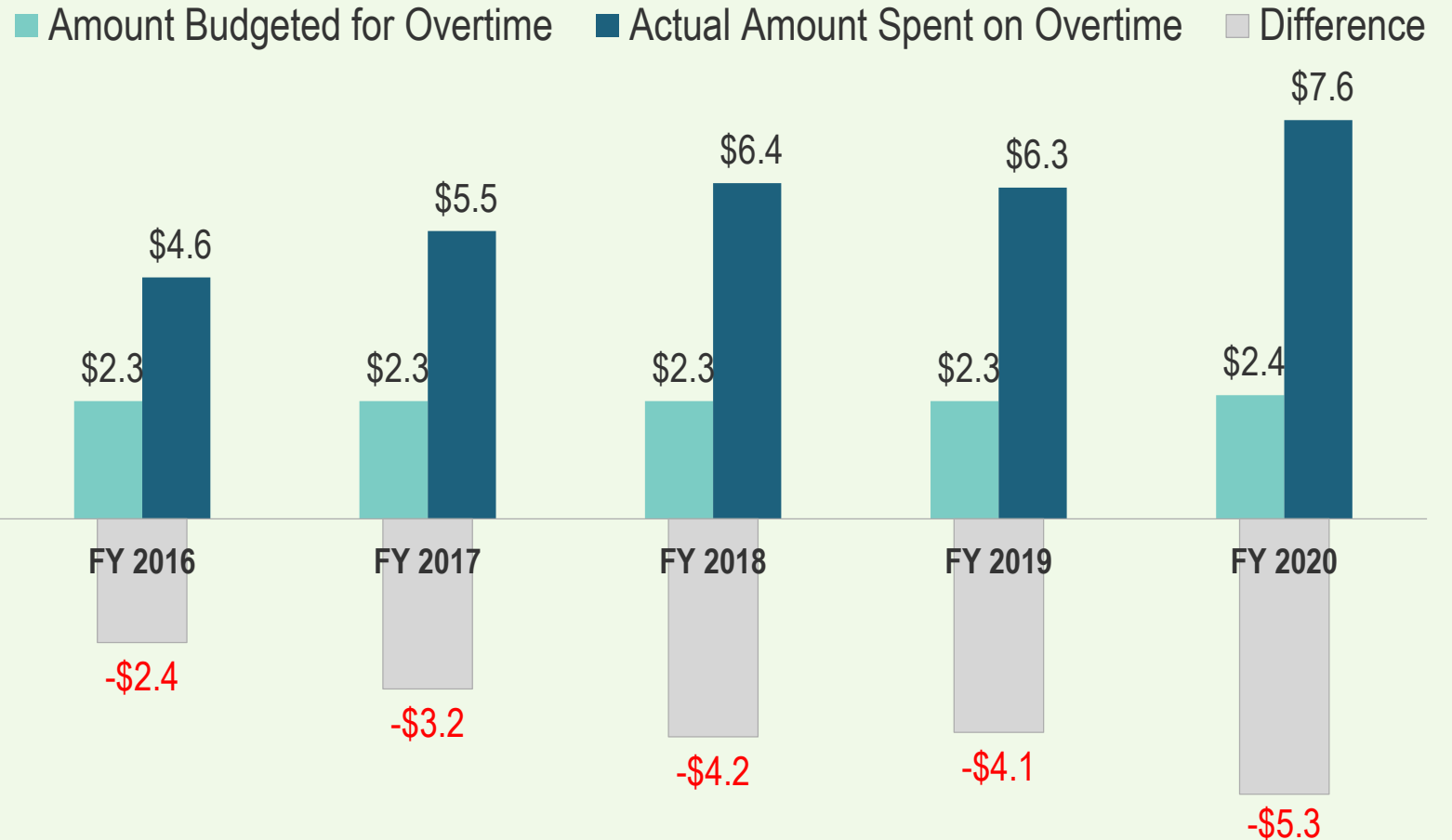


- General Fund savings from other departments cover BPD overages.

Source: BPD presentation to the Budget and Finance Committee on October 22, 2020. The values are *not* adjusted for inflation. See Page 9 and Appendix I of the report for details.

Overtime is the primary cause of BPD overspending, with increased costs each year.

**BPD Overtime Budget and Actual Expenditures
FY 2016-2020 in Millions of Dollars**



- BPD’s spending on overtime has consistently exceeded the \$2.25 million budgeted annually over the past ten years.

Source: BPD presentation to the Budget and Finance Committee on October 22, 2020. The values are *not* adjusted for inflation. See page 10 of the report for details.

Backfilling for vacancies and absences cost nearly \$1.3 million, or 24 percent of the BPD's total overtime costs.

BPD's Top 10 Overtime Expenditures, FY 2020 Total expenditures = \$5,153,176

1. Vacancies and Absences	\$1,254,652
2. Protest/Demonstration	\$687,619
3. Security for Outside Entities	\$498,758
4. Overtime Associated with Investigations	\$437,371
5. Community Patrol/ Security Coverage	\$413,952
6. Shift Extend	\$412,322
7. Special Response Team/Bomb Detail	\$351,390
8. Special Event	\$202,109
9. Grant-related	\$190,148
10. COVID-19	\$172,175

- BPD relies on overtime to achieve the sworn staffing levels set by the department for regular duty operations.

Source: BPD Payroll Data. See Figure 8 of the report details.

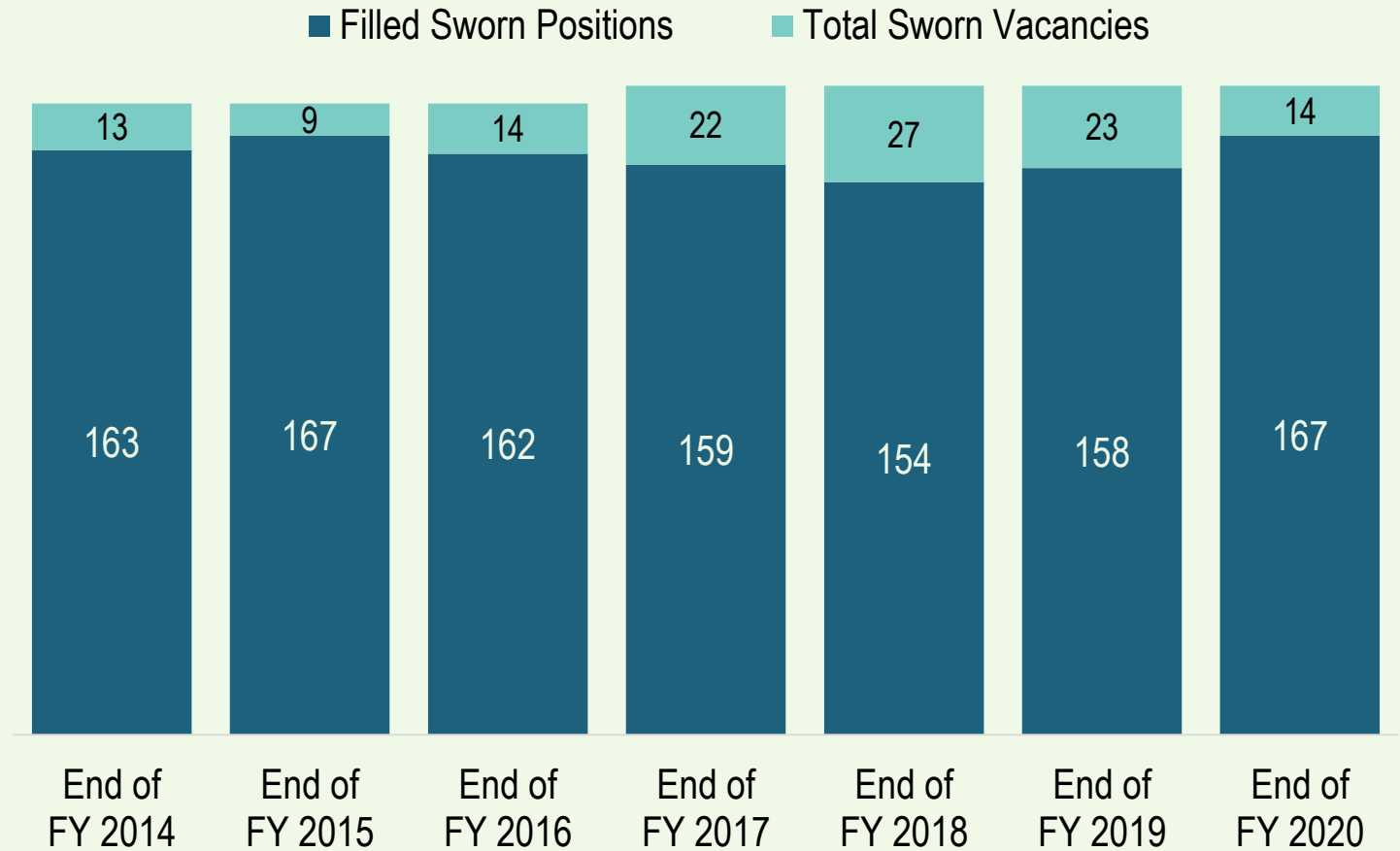
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Vacancies contribute to BPD's reliance on overtime

- Sworn officer positions across BPD's divisions have continuously been underfilled since 2015.
- According to BPD, patrol teams often do not meet daily minimum staffing without overtime.

**Sworn Officer Vacancies and Filled Positions
End of FY 2014 to End of FY 2020**

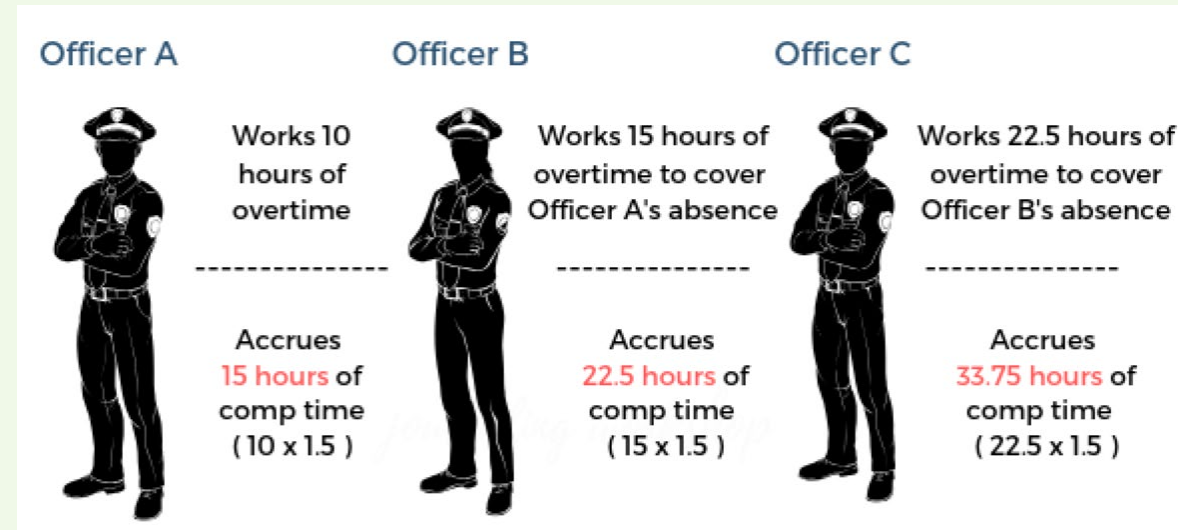


Source: Employment and vacancy data from the Berkeley Human Resources Department
 This chart is based on year end actuals. We did not analyze vacancies before 2015. See page 14 of the report for details.

Compensatory time may decrease policing capacity and increase costs

- In FY 2020, sworn officers accumulated a total of **8,319 hours** of compensatory time, which accounts for a **full year of work** (2080 hours), or **four full time employees**.
- Compensatory time may decrease the policing resources available.

Compensatory time has the potential to cause a chain reaction of backfill overtime.











Source: Audit of Oakland Police Department Overtime (FY 2014-15 through FY 2017-18)

What we found

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Minimum staffing is the lowest number of sworn officers needed to provide satisfactory levels of service and protection to the public.

BPD Minimum Staffing Levels

	Teams	Minimum of 60 Officers Total	Shift Time
Monday-Thursday	 Team 1	9 officers minimum	6:00am – 4:00pm
	 Team 2	8 officers minimum	11:00am – 9:00pm
	 Team 3	8 officers minimum	3:30pm – 1:30am
	 Team 4	9 officers minimum	8:30pm – 6:30am
Friday-Saturday	 Team 5	9 officers minimum	6:00am – 6:30pm
	 Team 6a	4 officers minimum	11:30am – 12:00am
	 Team 6b	4 officers minimum	2:00pm – 2:30am
	 Team 7	9 officers minimum	6:00pm – 6:30am

- BPD set staffing at **60 patrol officers**, split into **7 teams** covering 16 beats across the City.
- Staffing levels were set in 2016.
- Off-duty officers work **overtime** to backfill the absences.

Source: Berkeley Police Department

See page 12 of the report for further details.

BPD does not regularly assess the efficacy of their minimum staffing model.

- Calls for service requiring increased collaboration across City departments, such as homelessness and mental health.
- BPD does not regularly assess the Patrol Unit's staffing model in response to changing community needs.
- Patrol minimum staffing levels are not documented by BPD.
- Best practice: dynamic staffing model appropriately addresses community needs and accounts for staffing realities.

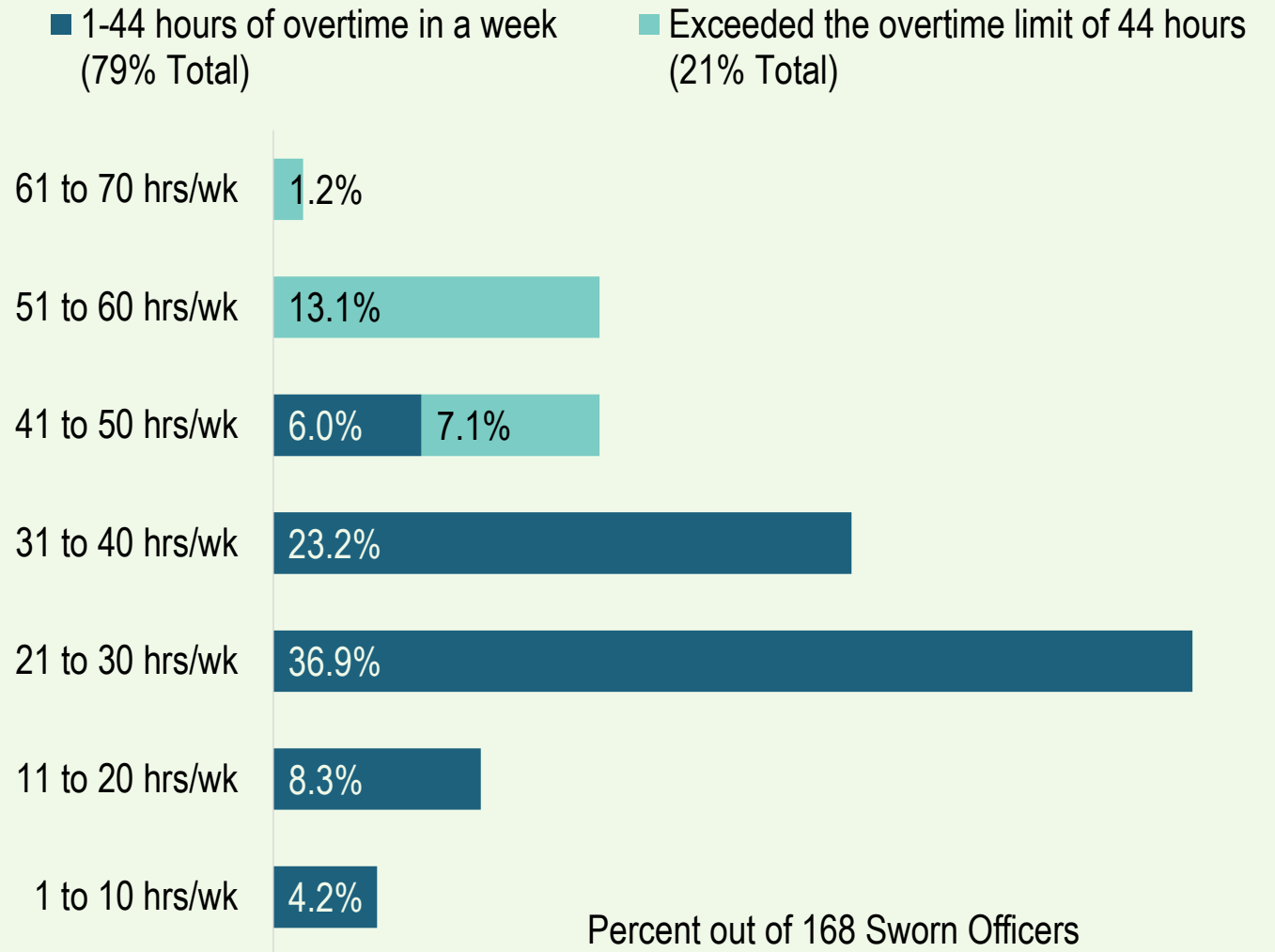
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Officers exceed overtime limits set by BPD.

- In FY 2020, **21 percent** of sworn officers exceeded BPD’s overtime limit at least once.
- **85 percent** of officers worked a week or more, compared to **nearly half** in FY 2019.

Maximum Hours Worked in One Week by Sworn Officers in FY 2020



Source: BPD Payroll Data. See page 23 of the report for further information.

BPD does not effectively track officer hours to enforce overtime limits.

- Manual paper system to schedule and track work hours.
- Overtime is voluntary and first come, first serve.
- System does not limit signing up for multiple spots, and supervisors may not know how much an officer has worked.

Sample BPD Sign-up Sheets



Source: Berkeley Police Department

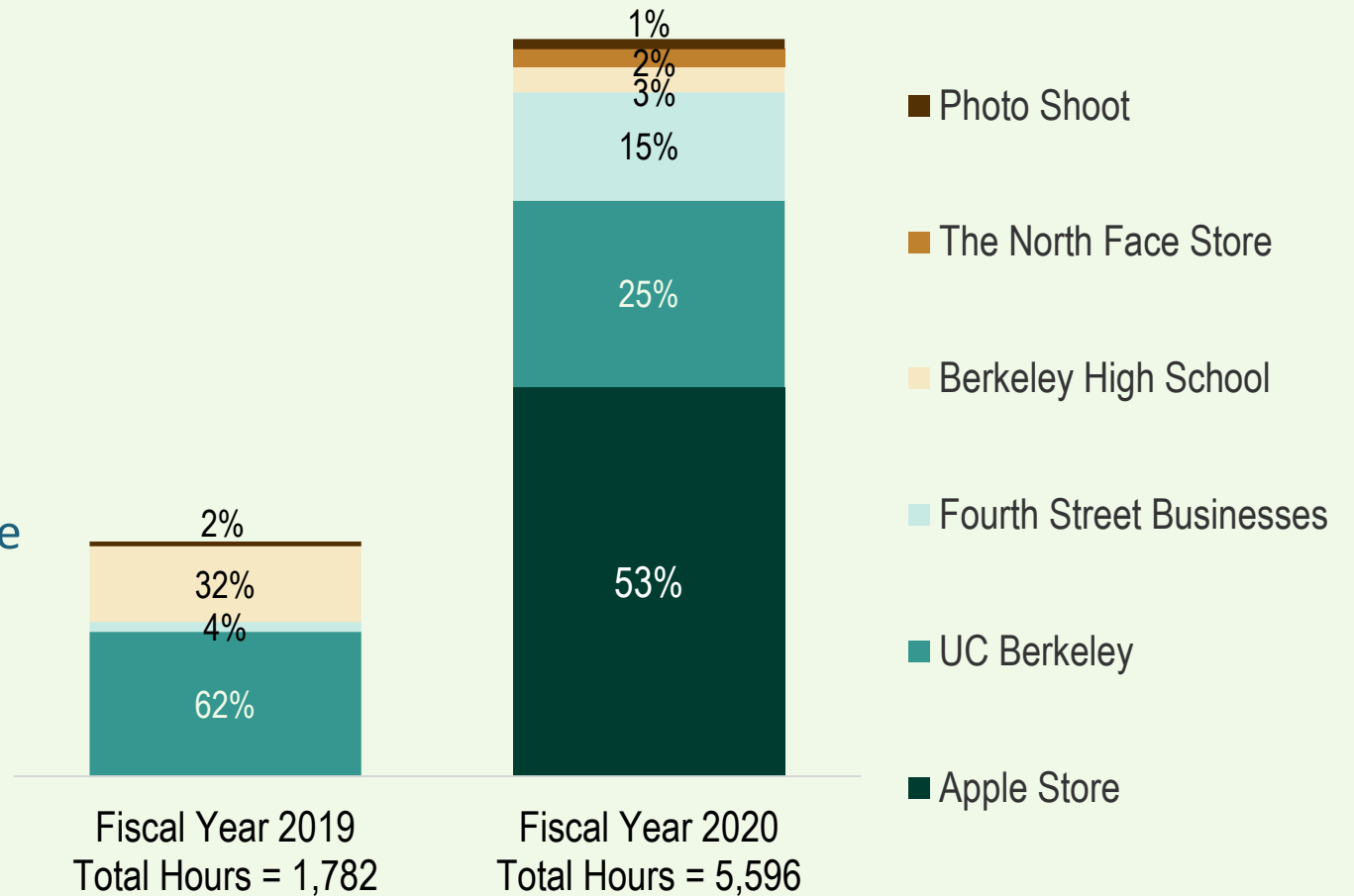
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BPD's personnel costs and hours towards overtime security work for outside entities more than tripled in FY 2020

Total Hours Worked by BPD for Outside Entities, FY 2020
(labeled by percent)

- In FY 2020, **50 percent** of all BPD sworn officers conducted this overtime.
- Six major employers, with **53 percent** of hours going toward Apple.
- Davis Police Department has a comparable arrangement and has a policy.



Source: BPD Payroll Data

BPD does not effectively track costs of overtime security and it is unclear if the City is charging outside entities appropriately.

Officer Working the Apple Store

- Officers paid overtime by BPD, outside entities reimburse the City.
- BPD charges payroll costs, including benefits paid for overtime.
- No charge for vehicle costs nor administrative costs.
- Difficult to determine costs are fully recovered:
 - Cannot separate out revenue
 - Manual processes subject to error
 - Billing can have errors

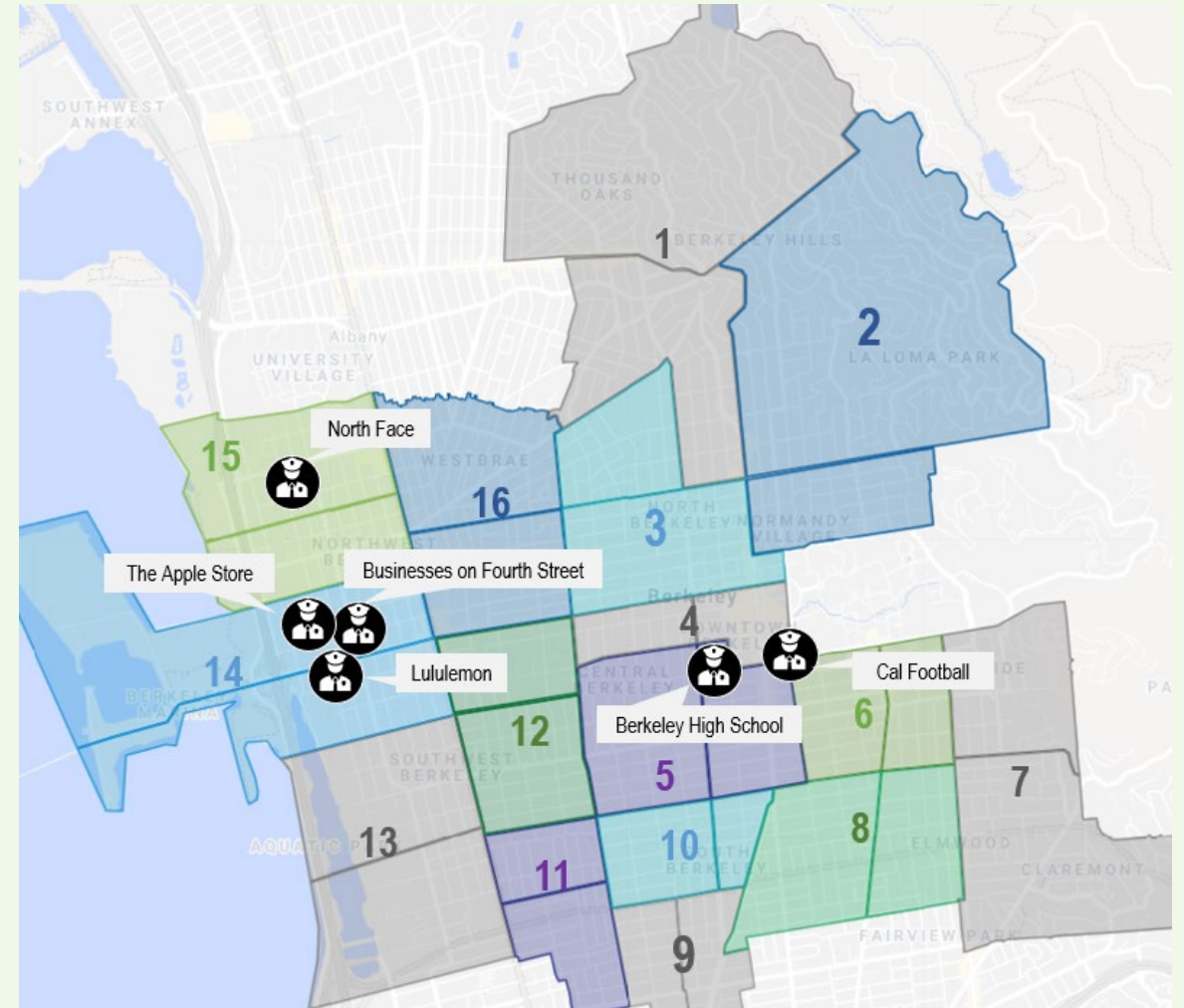


Source: Berkeley City Auditor

The BPD has no procedures or written agreements for working overtime with outside entities.

Work for Outside Entities in FY 2020 by Police Beats

- No evidence of contracts nor written agreements. No policies or criteria that govern approval and administration.
- Risks:
 - Liabilities
 - Conflict of interest
 - Administrative gaps
 - No working limits
- Without policies and documentation, BPD cannot ensure transparent and equitable services.



Source: BPD Beats Map on the Open Data Portal and Berkeley Police Department

Recommendations

We recommend that the Berkeley Police department:

1. Fill vacancies deemed necessary and/or reallocate staff pending reimagining process; collect and monitor data on compensatory time.
2. Publicly document minimum staffing; establish procedures to regularly assess their efficacy.
3. Evaluate and update overtime policies; use staffing software to monitor overtime and compensatory time.
4. Update policies and procedures, create contracts, and increase transparency on security for outside entities. Regularly evaluate billing, and explore ways to track revenues and expenses.

Management Response

The Berkeley Police Department agreed with our audit findings, conclusions and recommendations, and provided an action plan to address our recommendations.



We would like to thank the Police Department for their cooperation with this audit.





To: Honorable Mayor and Members of the City Council

From: Jenny Wong, City Auditor

A handwritten signature in blue ink, appearing to be 'JW'.

Subject: Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities

RECOMMENDATION

We recommend City Council request that the City Manager report back by September 29, 2022, and every six months thereafter, regarding the status of our audit recommendations until reported fully implemented by the Berkeley Police Department (BPD). They have agreed to our findings and recommendations. Please see our report for their complete response.

FISCAL IMPACTS OF RECOMMENDATION

Implementing the recommendations will ensure overtime worked by BPD officers is appropriate, saving BPD and the City costs related to unnecessary overtime. Implementation will also ensure the City is appropriately reimbursed for police services to outside entities.

If BPD and City do not implement recommended measures, overtime expenditures may continue to exceed BPD's budgeted amount in the following years. Without the ability to track revenues and expenses of work for outside entities, BPD risks continually underbilling for their services and not recovering the full costs of officer overtime. BPD and the City may also encounter liability costs if BPD continues to provide services to outside entities without contracts that include indemnity agreements.

CURRENT SITUATION AND ITS EFFECTS

BPD relies on overtime to achieve their sworn staffing levels. In Fiscal Year (FY) 2020, nearly a quarter or \$1.3 million of BPD's sworn overtime costs went toward backfilling for officer vacancies and absences.

BPD lacks a process to regularly assess the efficacy of minimum staffing levels, and cannot ensure that minimum staffing reflects the current needs of BPD and the community. BPD's minimum staffing levels could cause unnecessary overtime if not regularly updated.

BPD does not adhere to their overtime controls. In FY 2020, 21 percent of sworn officers exceeded BPD's overtime limit at least once. Without adequate enforcement and tools to manage overtime, BPD cannot mitigate risks of officer fatigue.

BPD's overtime security work for outside entities more than tripled in FY 2020. There are no procedures or contracts for this work, and it is unclear if BPD charges outside entities

appropriately. Without policies and documentation, BPD cannot ensure transparent and equitable services.

BACKGROUND

BPD's budget has increased significantly in the past several decades. BPD surpassed the budgeted amount four out of the last five years, with overtime being the primary cause of overspending. Though some amount of overtime is required, overreliance on overtime can increase fatigue and burnout, decrease productivity, and increase mistakes.

ENVIRONMENTAL SUSTAINABILITY

Our office manages and stores audit workpapers and other documents electronically to significantly reduce our use of paper and ink. Our audit recommendation for BPD to use modern staffing software could also reduce the use of paper and ink.

RATIONALE FOR RECOMMENDATION

Implementing our recommendations will improve BPD's management of overtime and mitigate risks associated with excessive overtime and officer fatigue. The recommendations will also ensure BPD's staffing levels are transparent, appropriate, and responsive to the current needs of the community. Additionally, the recommendation ensures BPD's work for outside entities is equitable and transparent, and in full compliance with relevant laws and policies.

CONTACT PERSON

Jenny Wong, City Auditor, City Auditor's Office, 510-981-6750

Attachments:

1: Audit Report: Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities

Audit Report
March 3, 2022

Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities



BERKELEY CITY AUDITOR

Jenny Wong, City Auditor

Erin Mullin, Senior Auditor

Alejandra Barrio Gorski, Auditor I



Berkeley Police: Improvements Needed to Manage Overtime and Security Work for Outside Entities

Report Highlights

March 3, 2022



Findings

1. Berkeley Police Department (BPD) relies on overtime to achieve their sworn staffing levels. In Fiscal Year (FY) 2020, nearly a quarter or \$1.3 million of BPD’s sworn overtime costs went toward backfilling for officer vacancies and absences.

Berkeley Police Department Top 10 Overtime Expenditures, FY 2020

1. Vacancies and Absences	\$1,254,652
2. Protest/Demonstration	\$687,619
3. Security for Outside Entities	\$498,758
4. Overtime Associated with Investigations	\$437,371
5. Community Patrol/ Security Coverage	\$413,952
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8. Special Event	\$202,109
9. Grant-related	\$190,148
10. COVID-19	\$172,175

■ Total expenditures = \$5,153,176. See Figure 8 on Page 13 for further details.

Source: BPD Payroll Data

2. BPD lacks a process to regularly assess the efficacy of minimum staffing levels, and cannot ensure that minimum staffing reflects the current needs of BPD and the community. BPD’s minimum staffing levels could cause unnecessary overtime if not regularly updated.

Objectives

1. What policing functions does BPD’s use of overtime cover?
2. Does BPD regularly assess minimum staffing levels to meet community needs?
3. Is BPD’s management of overtime sufficient to reduce excessive uses of overtime?
4. Are BPD’s agreements to provide work for outside entities transparent and in accordance with the law?

Why This Audit Is Important

BPD exceeded its General Fund budget four out of the last five years. In FY 2020, BPD surpassed its \$71.0 million allocation by \$4.8 million. Overtime is the primary cause of BPD’s overspending, and this report seeks to understand why BPD’s overtime spending has increased in recent years. Some overtime is required for various reasons. It is often more cost-effective than hiring staff and allows employees to meet fluctuating workloads. However, overreliance on overtime can increase fatigue and burnout, decrease productivity, and increase mistakes.

- 3. BPD does not adhere to their overtime controls. In FY 2020, 21 percent of sworn officers exceeded BPD’s overtime limit at least once. Without adequate enforcement and tools to manage overtime, BPD cannot mitigate risks of officer fatigue.

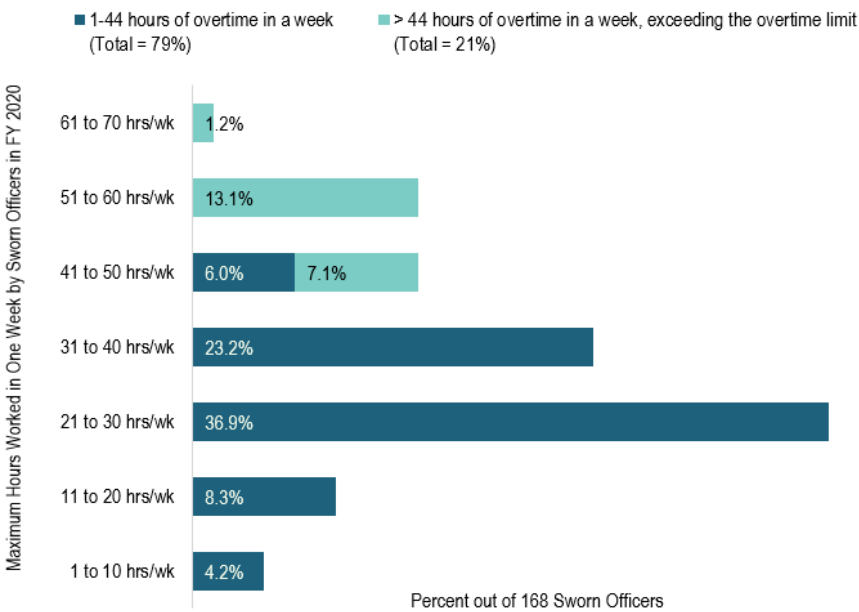
Recommendations

We recommend that BPD publicly document minimum staffing levels and establish procedures to regularly assess their efficacy. BPD should also evaluate and update overtime policies, and monitor overtime and compensatory time using staffing software.

We also recommend that BPD update policies and procedures, create contracts, and increase transparency on work for outside entities. BPD should also regularly evaluate their billing and explore ways to track revenues and expenses.

This audit does not propose recommendations regarding BPD’s staffing levels or service delivery model.

BPD Officers Exceed BPD’s Overtime Limit of 44 Hours in a Week in FY 2020



Source: BPD Payroll Data

- 4. BPD’s overtime security work for outside entities more than tripled in FY 2020. There are no procedures or contracts for this work, and it is unclear if BPD charges outside entities appropriately. Without policies and documentation, BPD cannot ensure transparent and equitable services.



Photo source: Berkeley Police Department



For the full report, visit:
<http://www.cityofberkeley.info/auditor>

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Introduction

In our 2021 Audit Plan, we identified the Berkeley Police Department (BPD) budget as an area needing objective and independent analysis of how limited City funds are allocated. In April 2020, our office produced a special report examining the impact of the COVID-19 pandemic on Berkeley's finances. We found that the City may need to reduce expenditures to focus on essential activities that prioritize public health and safety, as well as community values.¹ BPD's overtime expenditures have increased in recent years, and this report seeks to understand why. Some amount of overtime is required due to vacancies, emergencies, special events, staffing shortages, workload fluctuations, etc. It is often more cost-effective than hiring additional staff and allows employees to meet fluctuating workloads. However, overreliance on overtime can increase fatigue and burnout, decrease productivity, and increase mistakes.

In December 2020, the City entered into a contract with outside consultants to research, analyze, and make recommendations in regards to BPD's policing model including the size and scope of operations. It is important to have a staffing model that aligns with the needs of the community. To avoid duplication of work outlined in the City's reimagining public safety process, this report does not assess the adequacy of BPD's staffing levels or service delivery model. There are ongoing discussions in the City about appropriate staffing levels and what functions BPD should undertake.

¹Navigating the Impact of the COVID-19 Pandemic on Berkeley's Finances: https://www.cityofberkeley.info/uploadedFiles/Auditor/Level_3_-_General/Navigating%20Impact%20of%20COVID-19%20Pandemic%20on%20Berkeley%E2%80%99s%20Finances%20rpt.pdf

Objectives, Scope, and Methodology

Our objectives were to determine:

1. What policing functions does BPD's use of overtime cover?
2. Does BPD regularly assess minimum staffing levels to meet community needs?
3. Is BPD's management of overtime sufficient to reduce excessive uses of overtime?
4. Are BPD's agreements to provide work for outside entities transparent and in accordance with the law?

We examined BPD spending on overtime for fiscal years (FY) 2019 and 2020. We focused on this scope period due to its timeliness and relevance, bearing in mind that 2020 data may reflect the impacts of the COVID-19 pandemic. We assessed historic funding levels going as far back as FY 1970 when data was available. We specifically assessed internal controls significant to the audit objectives. This included a review of selected policies and procedures, interviews with staff from BPD, and source documents for payroll data. In performing our work, we identified concerns about the department's manual process for tracking officer schedules and hours worked to enforce overtime limits and manage staffing. For more information, see p. 43.

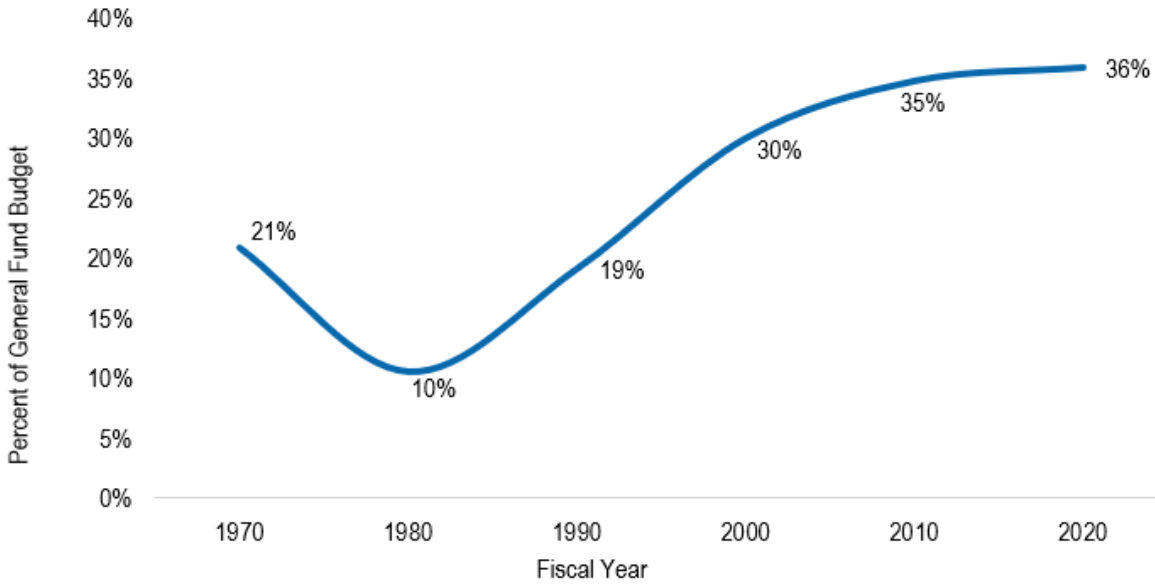
Background

BPD's budget is the largest portion of the City's General Fund.

BPD receives more General Fund money than any other department in the City. The Fire Department is the department with the second highest allocation of General Fund monies.² In FY 2020, BPD's allocation of General Fund monies accounted for 36 percent (\$70.6 million) of the City's \$196.9 million General Fund budget. The percentage of the General Fund allocated to BPD increased from 21 percent in 1970 to 36 percent in 2020, with one notable dip to 10 percent in 1980. In the context of Berkeley's total government expenditures, police spending has remained at a relatively constant level. BPD accounted for 14 percent of government expenditures in FY 2020 which is only a one percent decrease since 1970. Figure 1 only reflects the share of General Fund spending on police services and does not show how staffing and police operations have changed over time.

² City of Berkeley, FY 2020-2021 Biennial Budget: <https://www.cityofberkeley.info/uploadedFiles/Manager/Budget/FY-2020-2021-Adopted-Budget-Book.pdf>

Figure 1. BPD Received 36 Percent of the City’s General Fund Budget in FY 2020

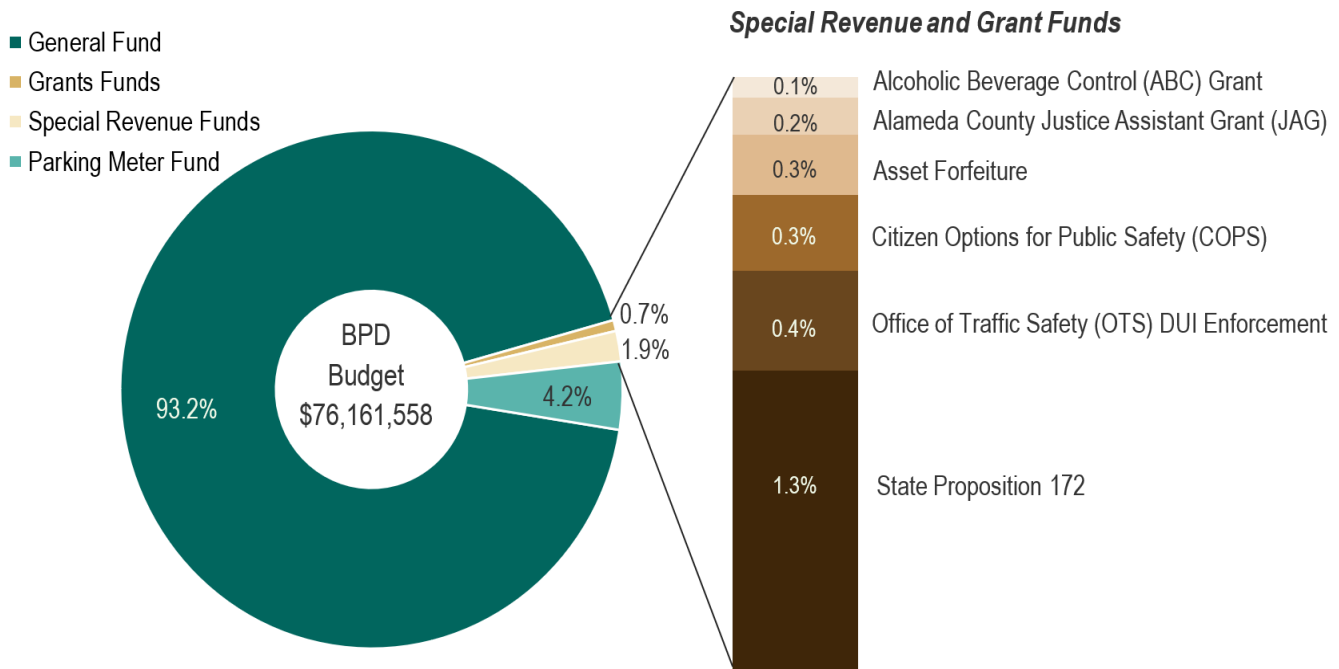


Source: FY 1970, 1980, 1990, 2000, 2010, and 2020 Adopted City Budgets

Most of BPD’s budget comes from the City’s General Fund.

Ninety three percent of BPD’s budget is paid for by the General Fund. Between 2015 and 2020, BPD’s funding streams were the General Fund, Parking Fund, Asset Forfeiture Fund, Federal Grants, and State/ County Grants. Appendix I provides further information about each fund.

Figure 2. The General Fund Makes Up 93 Percent of the BPD Budget, FY 2020



Source: FY 2020 Revised Budget Data

BPD’s budget has increased over time.

Since 1970, the BPD budget has grown significantly each decade, from \$21.86 million in 1970 (adjusted to 2020 purchasing power) to \$74.98 million in 2020. Personnel costs have accounted for the most significant portion of these budgets. Over the years, personnel costs have increased alongside BPD’s overall budget, but the portion of the budget that personnel costs account for has remained consistent at around 89 percent.

In contrast, since 1970, the number of BPD personnel has increased slightly by five percent, coinciding with a five percent increase in the City’s population during this period. Meanwhile, the average cost per employee has increased drastically: in 1970, 272 BPD personnel (sworn and non-sworn) cost the city \$19.45 million (adjusted to 2020 purchasing power) in wages and benefits, and by 2020, 285.2 employees in the same department cost the City \$67 million. On average, the cost of one BPD employee in 2020 was over three times that of one BPD employee in 1970.

Increases in fringe benefit rates contribute to the spike in personnel costs. We analyzed the overall cost of benefits, but did not look at the actual benefits personnel received. The cost of benefits for sworn police has increased significantly over the last five years, and police have the highest fringe benefit rate across the city. Between 2016 and 2020, the fringe benefit rate for sworn police increased 15.92 percent due mostly to an increase in the employer’s CalPERS rate. Fire had the next highest rate of 88.28 percent in FY 2020 which was 17 percent lower than Police. With a fringe benefit rate at 105.6 percent of an officer’s salary, it is always cheaper to have an officer work overtime rather than hire a new officer. However, it can be more expensive to have a higher ranked sergeant or lieutenant work overtime in place of hiring a new officer.

Figure 3. Officer Fringe Benefit Rates Exceed 100 Percent of Salary

Citywide Composite Fringe Benefit Rates for Sworn and Non-sworn Employees

Year	Sworn Police	Sworn Fire	Non-sworn (citywide)		
			Office	Field	Laborer
2016	89.68%	77.86%	69.33%	72.72%	89.84%
2020	105.6%	88.28%	66.66%	70.72%	85.09%

Note: These rates are estimates. Non-sworn fringe benefits rates include benefited city employees that are neither a sworn officer nor a firefighter. The type of non-sworn work of an individual position (office, field, laborer) determines the total benefit rate.

Source: City of Berkeley compensation matrices

Patrol has received the greatest portion of funding.

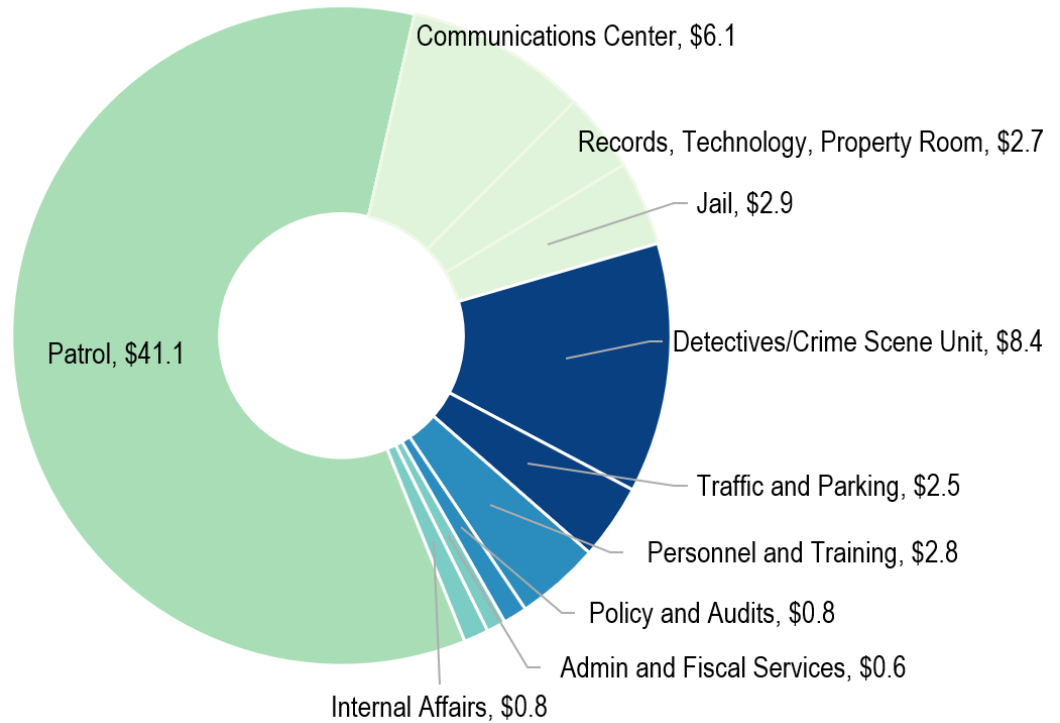
BPD has four divisions that report to the Chief of Police: Operations, Professional Standards, Support Services, and Investigations. The greatest share of BPD’s funding has historically gone toward the Operations Division, which manages the department’s Patrol Unit. Patrol is a core function of BPD, with 24/7 operations responding to emergency and non-emergency calls for service, conducting criminal investigations, and providing additional policing services.

Figure 4 shows personnel expenditures from BPD’s General Fund, by divisions and subdivisions. In FY 2020, BPD’s Patrol Unit accounted for \$41.1 million, or 60 percent of personnel costs within the department’s General Fund budget.

Figure 4. Patrol Operations Utilized 60 Percent of Personnel Costs from the Department’s FY 2020 General Fund Budget, in Millions of Dollars

Divisions:

- Operations (Patrol), 60%
- Support Services, 17%
- Investigations, 16%
- Professional Standards, 5%
- Office of the Police Chief, 2%

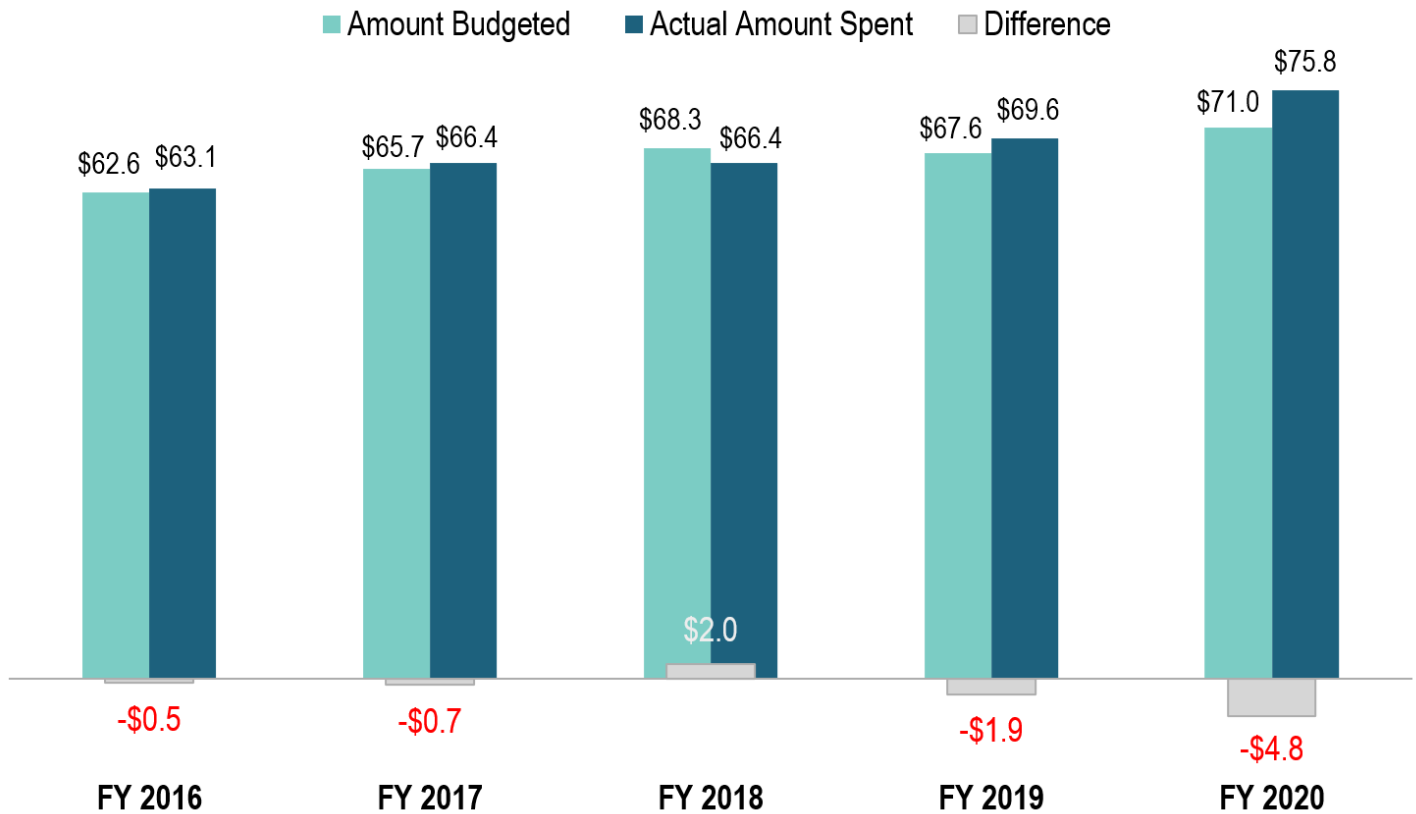


Source: FY 2020 Adopted City Budget

BPD has exceeded its General Fund budget four out of the last five years.

BPD has spent more from the General Fund than budgeted. BPD was half a million dollars over budget in FY 2016, and by FY 2020 the overage was nearing five million dollars. In FY 2020, BPD spent \$75.8 million of General Fund monies or approximately \$4.8 million more than the budgeted amount. According to the City Budget Office, General Fund savings from other departments are used to cover BPD overages after BPD has exhausted savings within their department.

Figure 5. BPD Spent More General Funds than Budgeted Four Out of Five Years, FY 2016-2020 in Millions of Dollars



Source: BPD presentation to the Budget and Finance Committee on October 22, 2020

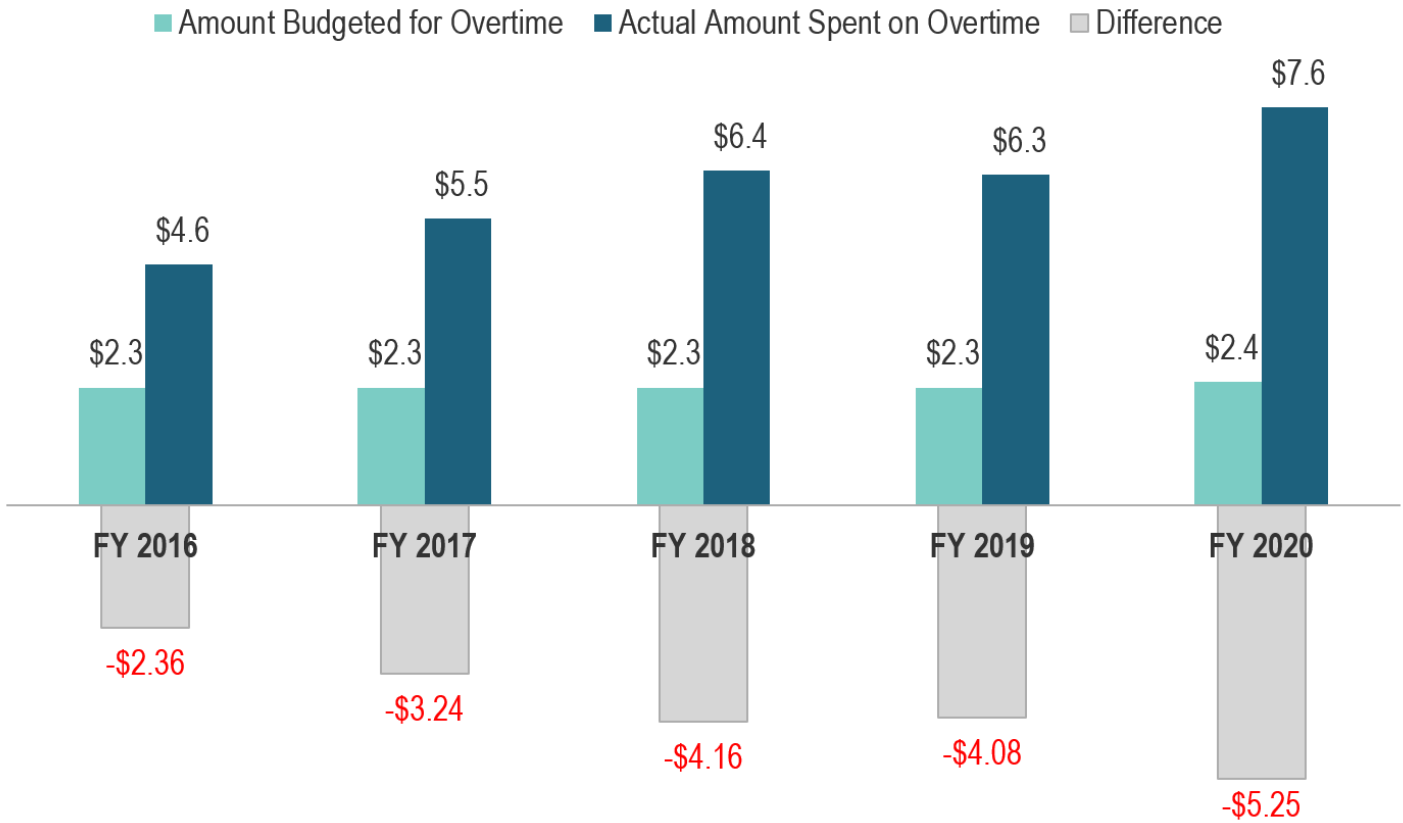
Overtime is the primary cause of BPD overspending, with increased costs each year.

The Operations Division, which contains the Patrol Unit, is BPD’s largest division and the biggest user of overtime. Policing is unpredictable and some overtime work is necessary and unavoidable. Officers may need to complete arrests at the end of their shifts, fill in to cover absences, or assist in safely facilitating public events. Police work also inevitably generates off-duty court appearances, trainings, and work on holidays. Some level of overtime can be viewed as a fixed cost of normal policing and will occur regardless of the number of officers employed. Knowing where, when, and why overtime was used is necessary if BPD is to anticipate overtime, to justify its payment, and to find ways to reduce the need for overtime expenditures.

BPD’s spending on overtime has consistently exceeded the \$2.25 million that the City has budgeted annually over the past ten years. Although BPD exceeded other budget line items in FY 2020, overtime was the biggest reason for the department overages. BPD increased overtime expenditures for public safety power shutoffs, COVID-19, protests, and work for outside entities from FY 2019 to 2020, contributing to an overall increase in overtime expenditures by nearly \$1.2 million (see Appendix II for more detail). According to the Budget Office, the City is committed to providing a police overtime budget that aligns with actual overtime expenditures going forward. In FY 2021, the City increased BPD’s overtime budget to \$5.3 million with an additional \$1 million in reserves.

The budget and expenditure data do not show the details of how overtime is paid. Some overtime is paid for by salary savings associated with department vacancies and other overtime is reimbursed from outside entities. However, reimbursements from outside entities are not credited back to the department, and we are unable to determine the reimbursed amounts under BPD’s current accounting structure (see page 33). Figure 6 offers a simple snapshot of overtime spending, and does not incorporate other ways in which BPD and the City recover the costs of overtime.

Figure 6. The Cost of Overtime Has Increased, While the Budgeted Funding Has Remained Insufficient, FY 2016-2020 in Millions of Dollars



Note: Includes sworn and non-sworn personnel.

Source: BPD presentation to the Budget and Finance Committee on October 22, 2020

The majority of overtime activities are paid for using BPD’s General Fund budget. In FY 2020, 81 percent of overtime activities were budgeted from BPD’s General Fund. The remaining 19 percent of overtime activities were budgeted from Grants and the Parking Meter Funds.

Overtime is used to maintain minimum patrol staffing set by BPD.

BPD relies on overtime to achieve the sworn staffing levels set by the department for regular duty operations. In FY 2020, overtime costs for sworn officers exceeded \$5 million or 75 percent of the department's total overtime expenditures. Overtime has a variety of beneficial uses, but a large part of overtime at BPD is simply backfilling officer vacancies and absences. While it is generally less expensive to use overtime to fill shift vacancies than it is to hire more staff, BPD relies on backfill in patrol often. In FY 2020, 45 percent of sworn officer's overtime hours in BPD were used to maintain regular duty operations and nearly half of those overtime hours were due to staffing vacancies and absences (Figure 8). Sworn officer vacancies contribute to BPD's reliance on overtime, and more work is needed to understand the full impact. Additionally, BPD does not adequately monitor compensatory time to ensure it does not increase the need for overtime.

Backfilling for officer vacancies and absences was the most common reason for overtime.

In FY 2020, backfilling for officer vacancies and absences was the most common and costly reason for overtime, accounting for 21 percent of sworn officer's overtime hours and costing nearly \$1.3 million, or 24 percent of the BPD's total overtime costs (Figure 8). Backfilling is the practice of filling a position to maintain staffing levels after a sworn officer goes on a leave of absence or vacates the position. Sworn officers are most frequently used to backfill to meet minimum staffing levels in the Patrol Unit.

Minimum staffing levels are the lowest number of sworn officers determined by the department that can be deployed while still providing satisfactory levels of service and protection to the public. For BPD, patrol minimum staffing is based on the number of sworn officers needed to cover the City's 16 beats at any given time of day.



According to Policy 1019, BPD overtime compensation is available to Officers,

Sergeants, and Lieutenants, and overtime work should ideally have prior approval by a supervisor and be documented with an overtime form.

The overtime form should be reviewed and approved by the Supervisor and Division Captain before going to the Payroll Clerk. Actual hours worked should be recorded on a timesheet.









Overtime is defined as time worked by an employee in excess of 40 hours per week. All overtime is awarded at time and a half unless specifically stated otherwise. An employee may request compensatory time off in lieu of receiving overtime payment (see extraordinary duty form in Appendix III).^{3,4}

³ Policy 1019: Overtime Compensation Requests, https://www.cityofberkeley.info/uploadedFiles/Police/Level_3_-_General/1019%20Overtime_Compensation_Requests.pdf

⁴ See Section 19: Overtime/Shift Extension in Berkeley Police Association MOU: https://www.cityofberkeley.info/uploadedFiles/Human_Resources/Home/Union_Negotiations/Signed%20BPA%20MOU%20-%20Final%2008262021.pdf

According to BPD command staff, patrol maintains a minimum of 60 sworn officers, broken into seven teams with minimums of eight or nine officers based on their beat and shift allocations (Figure 7). Teams are staffed with additional officers above the minimum level to absorb absences. It is unclear if this staffing level in patrol is appropriate, as we discuss further on page 18.

Figure 7. BPD Patrol Unit maintains a minimum staffing level of 60 sworn officers, split into 7 teams to cover 16 beats at all times of the day

	Teams	Minimum of 60 Officers Total	Shift Time
Monday-Thursday	 Team 1	9 officers minimum	6:00am – 4:00pm
	 Team 2	8 officers minimum	11:00am – 9:00pm
	 Team 3	8 officers minimum	3:30pm – 1:30am
	 Team 4	9 officers minimum	8:30pm – 6:30am
Friday-Saturday	 Team 5	9 officers minimum	6:00am – 6:30pm
	 Team 6a	4 officers minimum	11:30am – 12:00am
	 Team 6b	4 officers minimum	2:00pm – 2:30am
	 Team 7	9 officers minimum	6:00pm – 6:30am

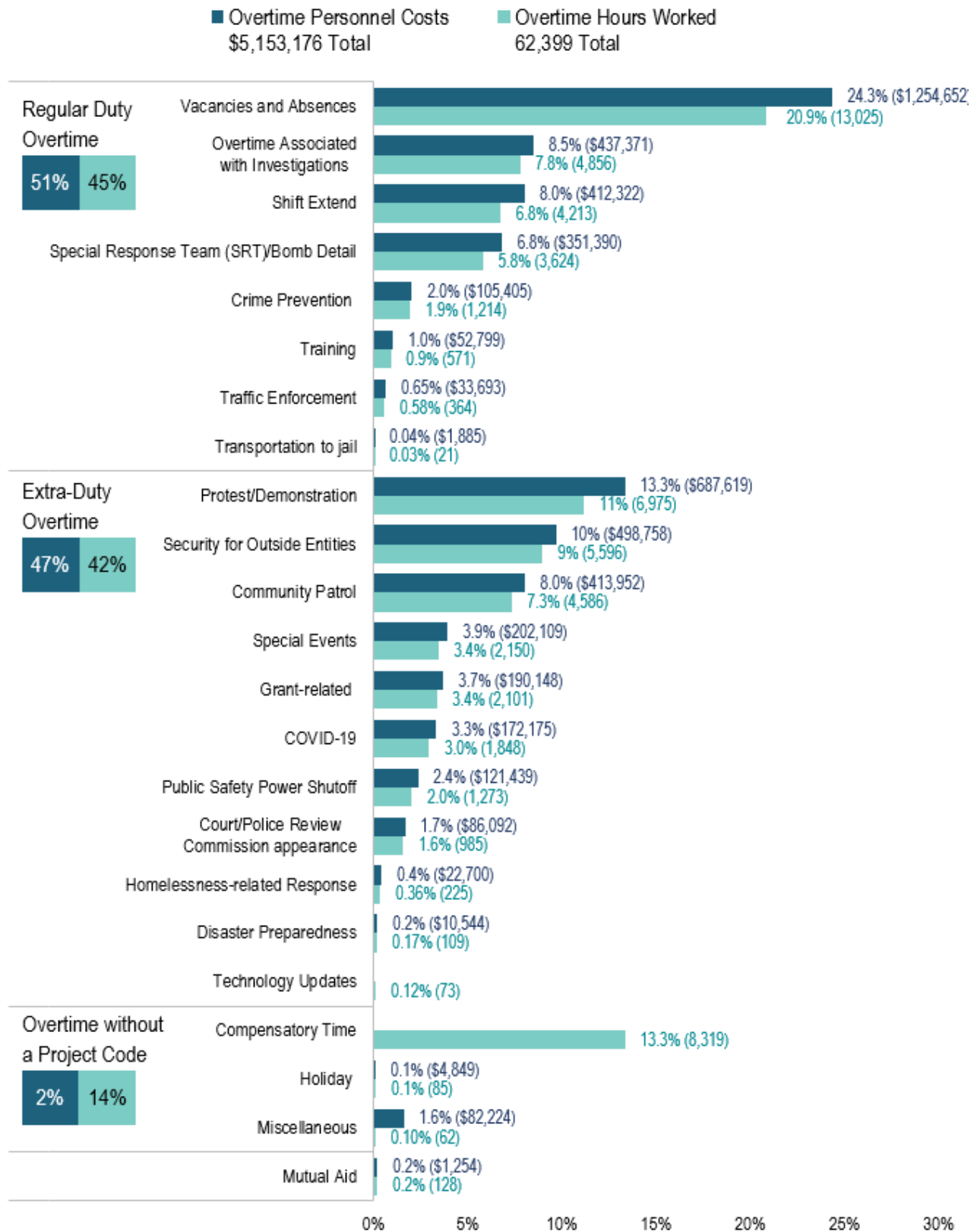
Note: Each team has a minimum of two supervising sergeants. There are four lieutenants, each overseeing two patrol teams. Teams with a minimum of 8 officers cover one beat per officer, while teams with minimums of 9 officers cover two beats per officer, with an additional swing officer when they are the only working team. Swing officers patrol the entire city or fill for absent officers.

Source: Berkeley Police Department

When teams lack sufficient staff to meet their minimums, command staff call in off-duty sworn officers to work overtime and backfill the absences.

Persistent backfilling indicates a chronic shortage of personnel in relation to the minimum staffing requirements. We did not determine whether BPD has appropriate minimum staffing or budgeted staffing levels; we only examined the process they use to determine minimum staffing in the next finding section.

Figure 8. Nearly 25 Percent of All Sworn Officer Overtime Was Used Filling Vacancies and Absences, FY 2020



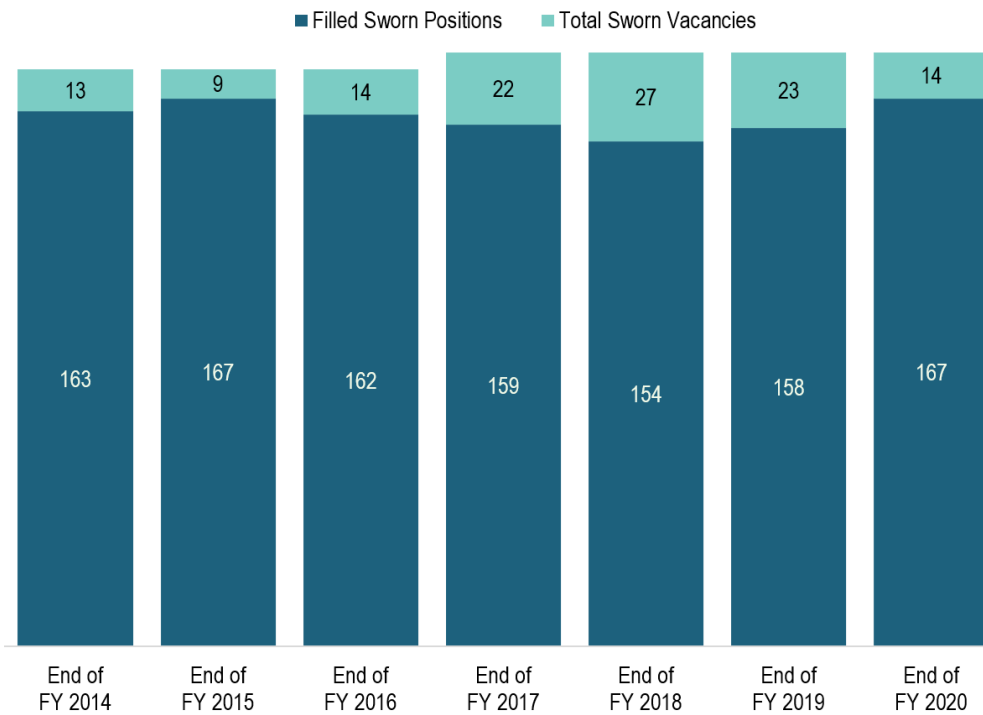
Note: Compensatory time does not have associated personnel costs because the payroll system does not count earned compensatory time as a charge to the City. The miscellaneous category includes hours that did not have a project code assigned due to the individual being a police recruit, an administrative lag, or human error. See Appendix II for a comparison of FY 2019 and FY 2020.

Source: BPD Payroll Data

Vacancies contribute to BPD’s reliance on overtime.

BPD’s minimum staffing levels are untenable without overtime to backfill vacancies and absences. BPD has experienced sustained vacancies in sworn staffing positions, fluctuating from only nine at the end of FY 2015 to a high of 27 at the end of FY 2018 (Figure 9). According to BPD, patrol teams often do not meet the minimum staffing on a day-to-day basis without overtime due to vacancies and absences related to anticipated leave (e.g., vacation or family leave) or unanticipated leave (e.g., injury, training, sick leave). We found that in FY 2020, sworn officers applied overtime to backfill absences for 353 days, or 97 percent, of the entire year.

Figure 9. Sworn Officer Positions Across BPD’s Divisions Have Continuously Been Underfilled Since 2015



Note: This chart is based on year end actuals. We did not do an analysis of sworn vacancies prior to 2015 to see if this is a normal trend or a 5-year anomaly.

Source: Employment and vacancy data from the Berkeley Human Resources Department

According to BPD, the list of full-time patrol officers in the Patrol Unit's timesheets have declined since 2016, when BPD updated current patrol minimum staffing levels (see Appendix IV for a sample timesheet). The number of patrol officers listed on timesheets has approached the minimum of 60 staff; for instance, in the timesheet spanning September 2021 to March 2022, six out of seven patrol teams had just one officer above the minimum. In October 2021, BPD reported that their sworn staffing levels fluctuate at or just below 157 filled sworn positions after the City deferred 23 sworn positions in BPD as a cost saving measure in response to the COVID-19 pandemic. As of this writing, the City continues to hold those sworn positions vacant.

It is important to note that the number of filled positions is not the same as the number of officers available to work. For example, new hires, although counted as a filled position, are not available for solo officer duties for nearly a year. Of the 157 sworn positions filled, seven of those positions are being held by individuals in academy bringing the number of fully-fledged officers down to 150. It is also not uncommon to have officers out on leave due to illness, injury, family leave, or military leave.

According to BPD, staffing shortages impact all police operations. In response to sustained sworn vacancies in 2020, BPD suspended the Special Investigations Bureau and bike patrol assignments, and reduced the number of Traffic enforcement officers. Absences impact other divisions, as off-duty sworn officers in other BPD divisions conduct overtime patrol when not enough off-duty patrol officers are available. Additionally, BPD has instituted mandatory overtime during periods in which not enough staff volunteer for overtime. All of these factors, among others, contribute to burnout and staff turnover, which reinforces BPD's use of overtime to backfill vacancies. Staffing is only slated to decline, as there are 15 current sworn employees eligible to retire during the writing of this audit.

More work can be done to better understand how recruitment and retention of sworn officers impact overtime. There are other facets of staffing that deserve further attention to understand BPD's reliance on overtime, including the overall budgeted staffing positions, staff workload, the deployment of officers, and the use of leaves of absence.

Compensatory time may decrease policing capacity and increase costs

When BPD officers work overtime, generally they can choose to either be paid for the overtime hours or they can earn additional paid time off (compensatory time) to be used at a later date. According to BPD, officers cannot earn compensatory for overtime that is reimbursable (i.e., work for outside entities and grants). In FY 2020, sworn officers accumulated a total of 8,319 hours of compensatory time, which accounts for approximately 831 10-hour shifts, or a full year of work (2080 hours) for 4 full time employees.

When an officer elects to receive compensatory time in lieu of overtime pay, that may decrease the policing resources available because every hour worked must be repaid by the department at time and a half—time taken away from other activities. Compensatory time comes out of existing capacity. In addition, earned compensatory time may imply additional costs to staffing because it is associated with an officer’s absence in the future that may need to be filled with overtime. Because earned compensatory time does not come out of existing budgetary allocations, BPD does not monitor its use as systematically as they do paid overtime.

Compensatory time is not costless, and has the potential to cause a chain reaction of more backfill and more compensatory time. For example, if a patrol officer works 10 hours of overtime, they could choose to earn 15 hours of compensatory time for that work, or they could choose to be compensated for their overtime work at time-and-a-half pay. When that officer takes those 15 hours of compensatory leave, another officer must work overtime to fill the vacancy. The officer might backfill in exchange for 22.5 hours of compensatory time. That 22.5 hours of leave might then be backfilled for 33.75 hours, and so on. Additionally, unused compensatory time is paid out when an officer leaves the City. BPD does have a policy limiting sworn officers’ accumulation of compensatory time to 120 hours, which should limit the amount of unfunded liability that comes with accumulated compensatory time and the potential chain reaction of backfilling and compensatory time. Our audit did not determine whether this policy is being enforced.

Staffing analytics tools and processes can factor in the costs of compensatory time, including projected salary increases and the impacts of compensatory time on future staffing. Monitoring compensatory time usage would allow supervisors to see if backfill increases over time.

According to the Berkeley Police Association Memorandum of Understanding, compensatory time off may be earned in lieu of overtime pay at the rate of one and one-half hours for each hour worked beyond 40 hours. Officers can accumulate up to a maximum of 120 compensatory hours. Upon termination of employment, the City must pay out the full amount of compensation for accumulated but unused compensatory time. Whether compensatory time is earned or overtime is paid is up to the discretion of the Police Chief. (BPA MOU sections 19.4 and 19.1.1.2)

Recommendations

To manage costs associated with compensatory time and the impact of vacancies on overtime, we recommend Berkeley Police Department:

- 1.1 Collect and monitor data on how often compensatory time leads to additional backfill overtime and develop a plan to monitor it.
- 1.2 Fill vacancies deemed necessary and/or reallocate staff pending the reimagining process and a determination of appropriate staffing levels.

Minimum staffing levels in BPD's Patrol Unit could cause unnecessary overtime if not regularly updated.

In 2016, BPD updated minimum staffing levels in the Patrol Unit to meet service demands and ensure officer safety; however, it is difficult to know whether these levels continue to reflect the City and the department's needs. Additionally, patrol minimum staffing levels are based on what BPD is responsible for responding to, which is subject to the reimagining process. BPD does not have a process to regularly assess the efficacy of minimum staffing levels in their Patrol Unit. Without regularly reassessing minimum staffing levels, BPD cannot ensure that staffing reflects the changing nature of the department and community needs and expectations.

It is unclear whether minimum staffing reflects the current needs of the City and BPD.

Minimum staffing levels can be informed by a variety of factors. The Patrol Unit's minimum staffing is informed by a study of police beats by Matrix Consulting Group that was commissioned by the City in 2014.⁵ The study considered factors including community and town hall meetings, population, geography, officer workload, calls for service, response time (including proactive patrol time), and industry standards/best practices. As a result of the study, BPD transitioned to the current 16-beat structure in 2016 and assigned minimum staffing accordingly (Figure 7).

⁵ Police Patrol Beat Evaluation Study, City Of Berkeley, Final Report: [https://www.cityofberkeley.info/uploadedFiles/Police/Level_3_-_General/Berkeley%20Beat%20Structure%20Final%20Report%2008-20-14\(1\).pdf](https://www.cityofberkeley.info/uploadedFiles/Police/Level_3_-_General/Berkeley%20Beat%20Structure%20Final%20Report%2008-20-14(1).pdf)

In recent years, BPD officers have encountered situations requiring increased collaboration across City departments, such as homelessness and mental health. BPD has taken measures to adapt to these needs, whether by revamping the Bike Unit, collaborating with Berkeley Mental Health, or fielding homeless-related inquiries through the Community Services Bureau. Following a request from City Council as part of the reimagining process, we initiated an audit of calls for service and proposed recommendations on how BPD can better track calls for service related to mental health and homelessness.⁶ The City is currently working with the Reimagining Public Safety Task Force and consultants to identify areas of police work that can be achieved through alternative approaches.

As of the writing of this report, BPD's Patrol Unit continues to adhere to the same staffing model from 2016, and minimum staffing remains unchanged. Currently, it is difficult to know whether the Patrol Unit's staffing model aligns with the evolving needs of the community and the department's adaptation. Without a regular assessment of their staffing levels, BPD cannot determine the extent to which operational changes exceed their staffing capacity. Given limited capacity and a lack of staffing software in the Department, it is difficult for BPD to quantify the extent to which patrol teams struggle to meet minimum staffing. More work can be done to quantify how often BPD falls below minimum staffing.

BPD does not regularly assess the efficacy of their minimum staffing model.

While minimum staffing is intended to meet the needs of the community, it should not stretch officers too thin nor lead to an excessive number of officers on duty. According to a best practice review by San Francisco's Budget and Legislative Analyst Office, effective minimum staffing is grounded in an up-to-date assessment of community needs and staffing levels which often evolve over time.⁷ It is important that departments regularly assess that their model is dynamic, appropriately addresses community needs, and accounts for staffing realities.

⁶ Data Analysis of the City of Berkeley's Police Response: https://www.cityofberkeley.info/uploadedFiles/Auditor/Level_3_-_General/Data%20Analysis%20of%20the%20City%20of%20Berkeley's%20Police%20Response.pdf

⁷ Best Practices Related to Police Staffing and Funding Levels: <https://sfbos.org/sites/default/files/FileCenter/Documents/54867-012616%20Police%20Staffing%20Methodology.pdf>

According to BPD, command staff routinely assess staff capacity in order to meet patrol minimum staffing levels. However, BPD does not regularly assess the Patrol Unit's staffing model in response to changing community needs. While minimum staffing is an important determinant of overtime, the patrol minimum staffing levels are not documented by BPD. There is no explicit reference to minimum staffing in BPD's list of policies, nor are they stated in BPD's publicly accessible list of patrol beats and officers. While an appendix in BPA's 2017-2020 MOU refers to minimum staffing, the document refers to BPD's outdated 18 beat structure.

It is unclear whether the Patrol Unit's minimum staffing is sufficient, and BPD does not use a standard to quantify or regularly assess the adequacy of staffing. Command staff rely on informal precedent, professional judgement, and feedback from officers to determine if staffing levels are adequate. According to BPD, command staff especially consider safety and officer engagement as factors for considering staffing adequacy.

In their 2021 annual crime report, BPD reported that low staffing has impacted the Patrol Unit's ability to proactively address and solve problems in the community. BPD identifies four main metrics to consider when determining patrol staffing and allocation: service levels, staffing levels, response time, and patrol time. These metrics are related and when one is impacted there are likely impacts to others. According to BPD, when they are fully staffed they are able to provide full service, reliable response times, proactive preventative patrol presence, and community engagement.

An effective staffing model includes regular assessments that are built into the department's internal operations. Using staffing software, BPD can draw insights from small, regular reports rather than extensive staffing assessments conducted by a third party. Codifying this process into a procedure or policy helps the department proactively respond to staffing needs and promotes transparency. Additionally, internal reports can serve as tools to communicate the department's capacity to decisionmakers and the public, align expectations with the community, and promote knowledge transfer between command staff and leadership.

Recommendations

To ensure staffing levels are transparent, appropriate, and can be adapted to the current needs of the community, we recommend Berkeley Police Department (BPD):

- 2.1 Establish a procedure to regularly assess minimum staffing and overall staffing needs of the department. This process should document and incorporate criteria to assess staffing levels, such as calls for service, other workload, community input, and other relevant factors. As BPD prepares for the rollout of a new software system, BPD should consider how to best align the program's capabilities with this assessment process.

To increase transparency to decision makers and the public, we recommend Berkeley Police Department:

- 2.2 Document and define the Patrol Unit's minimum staffing levels in a publicly assessable format.
- 2.3 Document the results of staffing assessments along with the assessment criteria. Incorporate results into staffing projections for budgetary decision making, including establishing a sufficient and appropriate overtime budget.

Officers work excessive overtime, increasing health and safety risks.

BPD does not adhere to their overtime policies and controls. In FY 2020, 21 percent of BPD officers exceeded the 44 hour overtime limit at least once. Excessive overtime can lead to fatigue-impaired officers, increasing risks to officers, the City, and the public. They do not have an effective system to enforce their policy and manage overtime. BPD relies on manually prepared paper records for scheduling and tracking regular and overtime hours worked. Without adequate enforcement of policies and tools to manage overtime, BPD cannot fully mitigate risks associated with officer fatigue.

Officers exceed overtime limits set by BPD.

On average, BPD officers worked 13.2 hours of overtime per week during FY 2020, and some worked significantly more. According to BPD, most overtime shifts are filled on a voluntary basis. Some amount of overtime work in policing is necessary and unavoidable, and will occur regardless of the number of officers employed. Officers may need to complete arrests at the end of their shifts, fill in to cover absences, or assist in safely facilitating public events. Police work also inevitably generates court appearances, trainings, and work on holidays (see Figure 8 for details of how BPD used overtime in FY 2020).

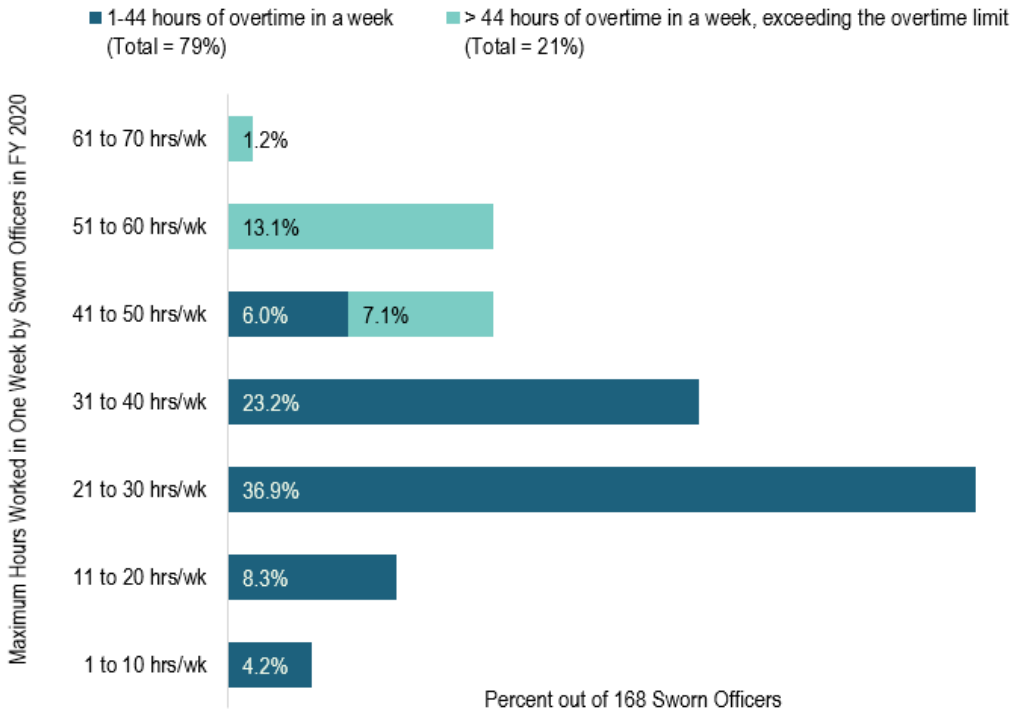
BPD has a policy to regulate overtime by placing limits on the total number of hours that officers can work within specific periods and requires officers have a minimum of eight hours off between shifts. In FY 2020, there were 62 occurrences of officers exceeding BPD’s weekly limit of 44 hours of overtime in a week. Twenty-one percent of BPD officers (36 officers) exceeded this limit at least once, however, one officer exceeded the limit 11 times in FY 2020 (Figure 10). Without enforcement and oversight of these limits, BPD’s policies may not be sufficient to manage the burnout and fatigue associated with overtime. For instance, an officer who works 44 hours of overtime in one week with recommended levels of sleep will only have 4 daily hours of off-duty time. As officers exceed this limit, they cut into their recovery time and increase their risk of burnout. There were two times when an officer worked more than 60 hours of overtime in a week, which is more than 100 total hours worked in a week.

BPD’s internal Policy 1015 states that BPD staff should not work more than:

- 16 hours in one day (24 hour) period or
- 30 hours in any 2-day (48 hour) period or
- 84 hours in any 7-day (168 hour) period

Additionally, the policy recommends a minimum of 8 hours between shifts except in very limited circumstances. These limitations apply to overtime. Supervisors should consider reasonable rest periods and are authorized to deny overtime or relieve any member who has exceeded the above guidelines. Limitations on the number of hours worked apply to shift changes, shift trades, rotation, holdover, training, general overtime and any other work assignments.

Figure 10. BPD Officers Exceed BPD’s Overtime Limit of 44 Hours in a Week in FY 2020



Note: The chart represents a total of 168 sworn officers. It does not include Captains, the Police Chief, Reserve Officers, and Retired Annuitants as they do not receive overtime pay. In addition, it excludes 1 officer who worked only one shift in FY 2020.

Source: BPD Payroll Data

Additionally, we found that more officers are working longer stretches without days off. In FY 2019, nearly half of sworn officers worked a week or more with no days off at least once, and one officer worked 47 consecutive days in a row. By FY 2020, 85 percent of officers worked a week or more with no days off at least once. BPD does not have a policy limiting the number of consecutive days officers can work. The department policy requires officers to take eight hours of rest between shifts, except in very limited circumstances, however, due to the manual nature of BPD’s staffing and time tracking we were unable to confirm that this policy is enforced.

Long work hours and fatigue can negatively impact officer safety, health, and performance.

While we did not perform specific analysis of the impact of overtime on BPD officers, excessive overtime can lead to fatigue-impaired officers, increasing risks to officers, the City, and the public. Police are required to be alert and use good judgment in order to respond appropriately to emergency calls. They must be able to make split second decisions and act on them with limited time and information in situations where there may be an element of danger. They are not only responsible for the safety of the public but also for other responding public safety officials (police, firefighters, paramedics). Overtime, when used in excess, can inhibit these essential skills and increase the safety risk to the public and other personnel.

Working more hours can increase fatigue, which has been found to increase injuries and accidents. Studies have found that fatigue negatively affects both police and the communities they serve.⁸ Fatigue increases the risk of accidents and other safety incidents, such as decreasing officer alertness, impairing decision-making ability, and slowing down reaction time. According to research, impairment after 20 hours of wakefulness equals that of an individual with a blood-alcohol concentration of 0.10. Fatigue also harms work performance by weakening memory, lowering frustration tolerance, and increasing stress and burnout. Finally, fatigue can have long-term health implications for officers, increasing blood pressure, hypertension, metabolic syndrome, and obesity.

We did not do an analysis of these impacts on BPD specifically as that would have required more resources than this report covered.

⁸ Vila et al., 2002: Improving shift schedule and work-hour policies and practices to increase police officer performance, health, and safety; and Lindsey, D., 2007: Police fatigue: An accident waiting to happen

BPD does not effectively track officer hours to enforce overtime limits.

Limits on overtime rely on effective monitoring and enforcement from supervisors. BPD's overtime policy without enforcement does not control for excessive overtime. The monitoring and enforcement for these limits lies with supervisors, as Policy 1015 states, "Supervisors should give consideration to reasonable rest periods and are authorized to deny overtime or relieve to off-duty status any member who has exceeded the above guidelines." BPD relies on manually prepared paper records for scheduling and tracking hours worked. Regular shifts and overtime hours are tracked on separate forms, with each overtime shift requiring a new form (Appendix III).

When tracing a sample of instances where officers exceeded overtime limits to paper overtime forms, there was no indication that supervisors were aware that these officers exceeded the overtime limits or why they were allowed to do so. There are legitimate reasons why supervisors might approve officers to exceed these limits, and the policy states that limitation of hours worked should be enforced absent emergency operations. We were unable to verify that any of these instances of exceeding the overtime limits were to staff for emergency operations.

Additionally, signing up for voluntary patrol overtime shifts are manual and first come, first serve. Supervisors post open overtime shifts on a corkboard in a central location in the public safety building. Officers manually write their badge number on an open shift to claim the overtime. This system does not necessarily block or limit officers from signing up for multiple spots. According to BPD, officers are not required to seek approval from their supervisor, unless officers think it may impact or overlap their regular job duties.

Figure 11. Sign-ups for Patrol Overtime Shifts Are Manual and First Come, First Serve



Source: Berkeley Police Department

As a result of BPD's manual processes, supervisors likely do not know how many hours an officer has worked leading up to a shift. This means that supervisors may select an officer for a new overtime shift who has already worked more than the supervisor thinks is safe.

Tracking all hours of work in one place is important because it can help supervisors ensure that officers are working safe amounts of hours, within the department's limits, and that extra-duty overtime does not affect their regular duty assignments. One study by the Department of Justice states that overtime can be successfully managed through a combination of analysis, recordkeeping, management, and supervision.⁹ Without staffing software and digitized timekeeping, BPD policies and management may not be sufficient to manage the burnout and fatigue associated with overtime.

⁹ National Institute of Justice, Police Overtime: An Examination of Key Issues: <https://www.ojp.gov/pdffiles/167572.pdf>

Recommendations

To mitigate the risks associated with excessive overtime and officer fatigue, we recommend Berkeley Police Department:

- 3.1 Update the department overtime policy to address the fact that there currently is no limit to the number of consecutive days worked and determine the appropriate limit for overtime that is enforceable with the goal of avoiding officer fatigue. The department may examine other jurisdictions' overtime limits as possible criteria.

To ensure efficient and effective management of staffing and overtime, we recommend Berkeley Police Department:

- 3.2 Work to implement a staffing software solution that integrates overtime management and scheduling software. Develop management reports that provide timely, accurate, and complete information on overtime usage. Develop a process for filling overtime shifts on a voluntary and mandatory basis, including supervisor approval. Build in warnings for when an individual is approaching overtime limits and an approval process for allowing individuals to exceed limits when deemed necessary according to the policy.

BPD has no contracts for overtime security with outside entities.

The hours BPD officers spent conducting extra-duty, overtime security work for both public and private entities (work for outside entities) more than tripled in FY 2020. Personnel costs for providing security to outside entities also tripled from \$160,000 in FY 2019 to almost \$500,000 in FY 2020, amounting to 10 percent of all of BPD’s overtime personnel costs. BPD does not have written policies that define and govern this work. In addition, BPD does not have contracts with outside entities, which unnecessarily increases the City’s risks and liabilities. BPD’s process for tracking costs associated with work for outside entities is insufficient and we are unable to determine if the City is being reimbursed appropriately. Without documented policies and processes for establishing work for outside entity agreements, BPD cannot ensure their services are equitable and transparent.

Officers’ overtime work for outside entities more than tripled in FY 2020.

The overtime hours BPD officers spent working for outside entities more than tripled in FY 2020, representing nine percent of all sworn overtime hours previously shown in Figure 8. The hours BPD officers work for outside entities contribute to the total strain overtime places on the department and individual officers. Outside entities are public and private organizations such as local businesses, schools, or private event organizers that request police services ranging from security, crowd and traffic management, to neighborhood patrol. Officers provide security in their capacity as BPD sworn officers and BPD pays them at the overtime rate, while outside entities submit reimbursements to the City. Officers worked with six major employers in FY 2020, and more than half (53 percent) of the overtime hours worked were for the Apple store (Figure 12). During this period, the 2,952 hours associated with the Apple store encompassed the equivalent of one full-time staff hours for an entire year.



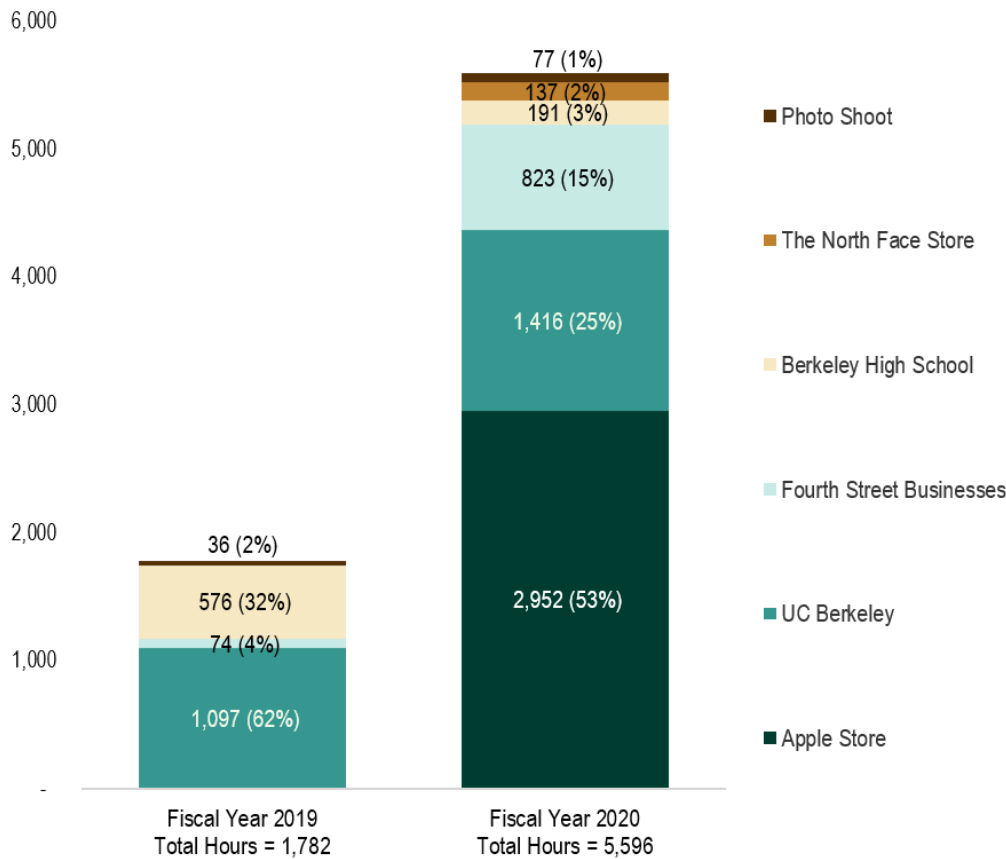
A range of outside entities have requested BPD’s services, including but not limited to:

Retailers. BPD has provided dedicated security services to retail stores including the Apple Store, Lululemon, and North Face. BPD also provides patrol and security for a merchant’s association representing businesses on Fourth Street.

Schools and universities. BPD provides services to local educational institutions including UC Berkeley and Berkeley High School (BHS). According to BPD, services to UC Berkeley are often for football games. BPD’s agreement with BHS supports the cost for overtime incurred by the full time School Resource Officer or any other officer that works in an overtime capacity for BHS.

One-time events for private companies. BPD also provides services to companies for one-time events. For instance, BPD has provided security during movie filming, security for moves between commercial or private residences, and crowd management for demonstrations against installations of AT&T private equipment.

Figure 12. BPD More than Tripled the Hours Spent Working Overtime for Outside Entities in FY 2020



Note: Fourth Street businesses includes holiday patrol.

Source: BPD Payroll Data

The employment of public officers for private security work, whether at an individual or department level, is not unique to BPD. Both the Davis Police Department¹⁰ and San Jose Police Department¹¹ have procedures that enable sworn officers to provide private security overtime.

¹⁰ Davis Police Department, Extra-Duty and Off-Duty Employment Policy: <https://www.cityofdavis.org/home/showpublisheddocument/13243/636951554881270000>

¹¹ San Jose Police Department, Instructions for Secondary Employment: <https://www.sjpd.org/home/showpublisheddocument/350/637469312631370000>

According to an Illinois Law Review study, outside entities are sometimes willing to pay the costs of hiring officers due to their capacity as sworn officers, including the ability to detain, search, arrest, and use force on suspects.¹² In August 2019, the San Francisco Chronicle surveyed security businesses, retailers, and police officers to explore the growth in San Francisco police as private paid security, known as the 10-B program.¹³ They found that outside entities rely on the visibility of a uniformed officer in a patrol vehicle to deter unwanted theft. Additionally, outside entities benefit from officers' broader connection and communications to local law enforcement agencies. Our audit did not investigate the complex reasons for the growth in requests.

The BPD has no procedures or written agreements for working overtime with outside entities.

BPD does not have policies nor criteria that govern the approval and administration of department agreements for work for outside entities. We also did not find evidence of contracts or written agreements between BPD and outside entities on these overtime arrangements. Without written contracts or agreements regarding the role or authority of a private company, BPD and the City of Berkeley may bear the cost of potential hazards that surface from work for outside entities. Updated policies and procedures are essential for the proper transparency and accountability of government resources and for achieving efficient and effective program results.

¹² Stoughton, Seth W., Moonlighting: The Private Employment of Off-Duty Officers (August 26, 2016). 2017 U. Ill. L. Rev. 1848 (2017), Available at SSRN: <https://ssrn.com/abstract=2830652> or <http://dx.doi.org/10.2139/ssrn.2830652>

¹³ San Francisco Chronicle, Businesses hiring real SF cops on OT to keep crime down, employees safe; <https://www.sfchronicle.com/bayarea/philmatier/article/Businesses-hiring-real-SF-cops-on-OT-to-keep-14365181.php>

In 2020, sworn officers in every BPD division provided security for outside entities, amounting to 50 percent of all sworn staff eligible for overtime on BPD's payroll. Unlike self-employment or employment by others, work for outside entities is executed by the department and paid for by reimbursements to the City from outside entities. Nevertheless, the City and BPD's policies on outside employment (A.R. 2.10 and Policy 1020, respectively) do not define nor address reimbursed work for outside entities pursuant to an agreement between the department and those entities. Unlike BPD, Davis Police Department has policies guiding their contracted security work for outside entities. Davis' policies in their arrangements with outside entities include liability and worker's compensation, application protocols, account management, time of payment, and selection of officers.

Figure 13. Apple Accounted for the Majority of BPD's Work for Outside Entities



Source: Berkeley City Auditor

It is City practice in other areas to enter into contracts and/or execute agreements when providing or obtaining services from outside entities. For example, the City has an administrative regulation that establishes a framework for approvals, contract execution, financial recording, and billing of grants and any other agreements such as reimbursement contracts, cooperative agreements, Memorandums of Understanding, or other participation agreements that provide an award of financial assistance to support a City program or project. Adopting similar processes for work for outside entities would improve transparency and decrease risk and liability to the City.

A lack of written agreements and policies, together with the increase in BPD’s work for outside entities, introduce unnecessary risks and liabilities across a variety of areas. We identified the following potential risks, among others:

Liabilities. Without an indemnity agreement to clarify the role and authority of outside entities, BPD and the City of Berkeley may open itself up to additional liability. A lack of agreements also creates ambiguity as to the responsibility of an officer working on behalf of an outside entity. While working for outside entities, officers are assigned to provide security for that entity. They do not respond to calls or perform other general police functions, yet they maintain police powers and can exercise those powers while working on behalf of the outside entity. There may also be misperception on the part of the public, the officer, or the private entity as to the scope of duties and role of the outside entity and relationship with the officer.

Conflict of interest. A lack of priorities or criteria informing BPD’s approval of contracts introduces the risk of working arrangements with a conflict of interest or divergence from City values. Without criteria, there are no formal measures against working for businesses with a history of criminal activity, or businesses involved in legal proceedings against the City.

Administrative Gaps. Without formalized procedures, BPD risks executing important administrative steps partially and inconsistently, or missing some steps altogether. A formal application provides opportunities to collect information about services needed, review and approve contracts in a uniform manner, ensure alignment with the municipal code and BPD’s stated values, and establish expectations with prospective outside entities.

No limits to hours working for outside entities. It is difficult for officers and supervisors to monitor hours spent working for outside entities without overarching guidelines or limits regarding officer’s assignments. According to BPD, the Patrol Unit prioritizes other forms of overtime above work for outside entities.

Fewer data to manage the workload. Without methods to track the number of requests, approvals, and contracts for working with outside entities, BPD is unable to understand trends over time and proactively manage their workload accordingly. Tracking data on outside entity requests, along with project codes in BPD’s payroll data, would provide opportunities to inform beats and staff assignments in the future.

BPD does not effectively track costs of overtime security and it is unclear if the City is charging outside entities appropriately.

BPD’s personnel costs of working for outside entities tripled from \$160,000 in FY 2019 to almost \$500,000 in FY 2020, amounting to 10 percent of all of BPD’s overtime personnel costs. Under BPD’s current process for tracking costs associated with work for outside entities, we cannot determine if the City is recovering the full cost for their services to outside entities.

According to BPD, they charge outside entities only for the payroll costs incurred by the officer’s work for outside entities, including benefits that are paid for overtime. The City does not recover costs associated with the use of City vehicles nor the administration of these agreements including planning, staffing, and invoicing. We also found BPD charges the businesses on Fourth street a flat fee of \$5,000 during the winter holidays, even if the cost of services exceeds this amount. This arrangement pre-dates the current Fiscal Management staff, and it is unclear when or why it was established. We cannot know the full excess costs of flat fee arrangements as BPD does not identify them in their billing documents.

Without clearly understanding invoices and revenue, BPD cannot reconcile costs with their reimbursements. As a result, BPD may continually underbill for their services and not recover the full costs of officer overtime. On the other hand, BPD may overbill outside entities, which can influence perceptions about working with the City. It is difficult to track the appropriateness of reimbursements for several reasons:

BPD cannot separate out revenue. Checks are deposited into a general revenue account along with other revenues. As such the City cannot separate out specific revenues tied to work for outside entities.

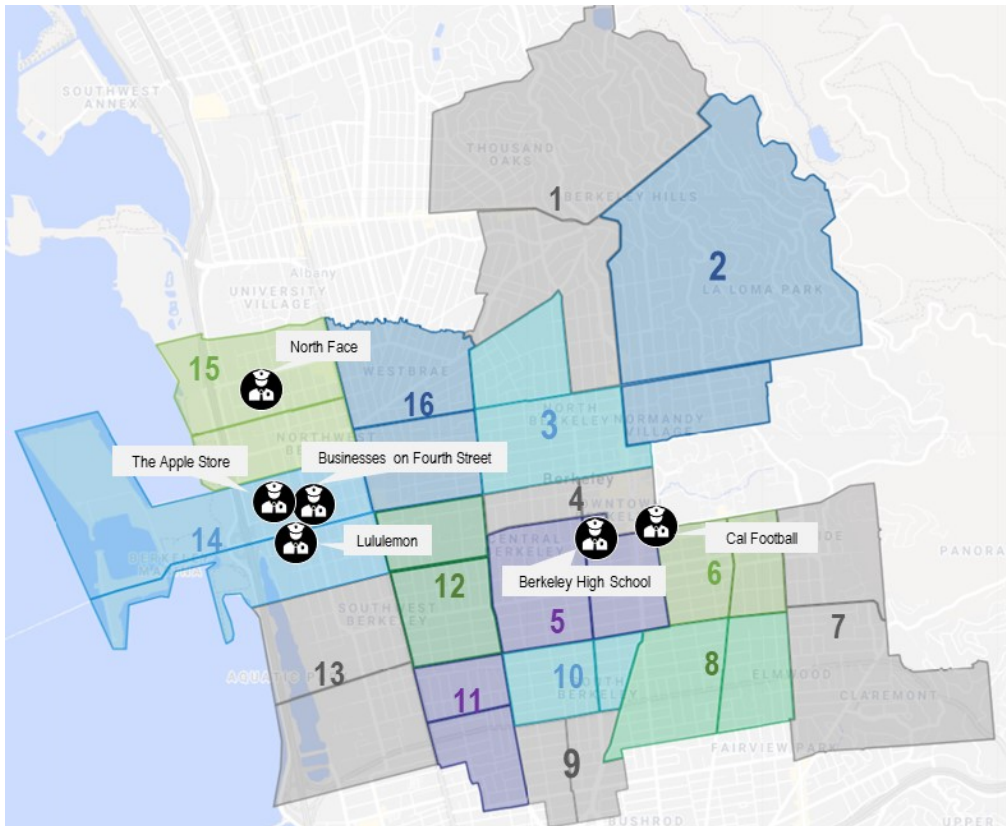
Manual process subject to error. Data entry errors may surface as the payroll clerk manually calculates the hours worked by each individual plus the benefitted amount, as well as invoice amounts in the system. It is possible that hours do not get added to payroll, or that they get added to the wrong project code.

BPD’s billing can have errors. BPD follows a billing procedure that exists outside of the City’s accounts receivable system using spreadsheets. The department does not have quality controls to review the spreadsheets for accuracy, and the growth in requests for outside entities is outgrowing BPD’s capacity to closely monitor a growing number of the invoices to outside entities.

Additionally, revenues from outside party reimbursements are not fully credited back to BPD. Reimbursements from outside entities are deposited into the City’s General Fund, and BPD’s expenditures for overtime work with outside entities can exceed the City’s budgeted amount. According to BPD’s Fiscal Services Manager, the budgeted expenditures for work with outside entities have remained fixed at \$150,000 for over a decade, despite the growth of personnel expenditures to \$498,685 in FY 2020. Reimbursements for overtime work with outside entities do not replenish the overtime fund from which BPD officers were paid, and are not guaranteed to be allocated to BPD.

Without policies and documentation, BPD cannot ensure transparent and equitable services.

BPD leadership should know how to best deploy its officer resources, but work for outside entities as it is currently operating may undermine that judgment. The breadth and prevalence of work for outside entities in FY 2020 has essentially privatized a portion of officer overtime, and without policies to manage this growth, BPD may encounter unforeseen impacts related to equity and transparency of their services for businesses and residents alike. Occasionally, multiple officers will provide services simultaneously for companies located in the same beat alongside the regular beat officer; this is especially true for security for various companies on Fourth street (Figure 13). BPD does not have agreements or written procedures to prevent policing from skewing toward one specific contract or type of entity at the expense of other businesses or neighborhoods with higher service and crime response.

Figure 14. Work for Outside Entities in FY 2020 by Police Beats

Source: BPD Beats Map on the Open Data Portal and Berkeley Police Department

The lack of documentation surrounding outside entities also raises concerns around transparency and equity. As discussed previously, BPD historically provided a flat fee of \$5,000 to the businesses on Fourth Street, and expenditures were higher than this fee. Without procedures, BPD may continue to use inconsistent flat fee arrangements leading the City to inadvertently charge one company less than another without criteria as to why. In addition, certain companies have dedicated contractors that coordinate their security. For instance, the firm Security Industry Specialists Inc. (SIS) handles Apple's agreements with BPD, while smaller businesses may benefit from BPD security but lack these resources to acquire BPD's services. Larger-income businesses can afford the additional protection afforded by sworn officers, while smaller businesses may be unable to benefit from City-sponsored security. Further, there is potential for bias or perception of bias if police working as private security encounter a dispute between a member of the public and the private entity. An officer that is providing security for a private entity may not be viewed as objective in resolving a conflict between that private entity and a member of the public. This risk is heightened by lack of regulation, documentation, and public communication.

While any community that wants security has a right to pay for it, it raises questions of equity of access when that extra security is provided by City-employed officers. BPD can improve equity if every business is able to access information about these services, and they provided a transparent application process for community members interested in obtaining these services. This brings up questions and considerations around BPD's overall scope of work for outside entities given BPD's staffing gaps, high levels of overtime, potential perceptions of bias, and the risks detailed above.

Transparency is especially important in the case of police work. Unlike most public officials—who may also be employed by outside entities—police officers retain their public authority in their capacity as sworn officers on behalf of outside entities. Since work as BPD officers is an extension of work for the City, relevant information about their work with private entities should be available internally to the City and/or the public. This practice is worthy of public discussion and evaluation.

Recommendations

To ensure work with outside entities is in full compliance with relevant laws and policies, and to increase transparency and reduce liabilities, we recommend Berkeley Police Department (BPD):

- 4.1 Update A.R. 2.10 and other department policies to explicitly include guidance around department agreements for work for outside entities, which is paid for by reimbursements to the City from the outside entities. Internal procedures should include appropriate criteria to identify and document the benefit to the City gained by work for outside entity agreements, and to allocate resources in a way that does not negatively impact City operations. Additionally, BPD should document their criteria for when officers are not available or eligible for work for outside entities.
- 4.2 In consultation with the City Attorney, create contracts with outside entities in compliance with City policies and applicable laws.

- 4.3 Develop an application for BPD’s services that is publicly available and accessible online to any interested party. Set pay uniformly according to rank and hourly rate and include a reasonable fee that covers the expenses of administering work for outside entities including workers compensation, fuel, use of equipment, and any other actual or potential costs to the City.

To ensure the City is being appropriately reimbursed for policing services contracted out to outside entities or any other agreements (i.e., special events), we recommend Berkeley Police Department:

- 4.4 Reconcile invoices with the amounts received for work with outside entities at regular intervals. BPD should also implement procedures to check invoices for errors prior to billing outside entities.
- 4.5 Explore ways to clearly account for different funds to track revenues and expenses.

Recommendations and Management Response

We provided a draft of this report to City Management and BPD for review and comment. City Management agreed to our findings, conclusions, and recommendations. Below is the BPD's initial corrective action plan and proposed implementation date. We find their plan to address our audit recommendations reasonable. As part of the follow-up process, the Berkeley City Auditor will be actively engaged with the Police Department every six months to assess the progress they are making towards complete implementation. The department will submit a council item every 6 months with an update on the progress of their recommendations.

1.1 Collect and monitor data on how often compensatory time leads to additional backfill overtime and develop a plan to monitor it.

Management Response: Agree.

Proposed Implementation Plan: BPD is currently working to implement an electronic staffing solution. The Department will assess the ability to monitor and track this information in electronic staffing in order to understand the expense and impacts of compensatory time. BPD will explore the possibility of developing a report through existing payroll and finance programs to understand the impact of compensatory time usage and practices.

Proposed Implementation Date: Estimated completion within 18 months from date of audit response.

1.2 Fill vacancies deemed necessary and/or reallocate staff pending the reimagining process and a determination of appropriate staffing levels.

Management Response: Agree.

Proposed Implementation Plan: BPD understands the impact that reduced staffing has on overtime costs and always strives to fill vacancies and operate within our budget. Challenges in retention of existing officers, difficulty hiring new officers and many imminent retirements make it difficult to apply a timeline on implementation of this recommendation. Recruitment efforts, prioritization of hiring and related processes and budget authority to hire will be instrumental to the department's success.

Proposed Implementation Date: Ongoing.

2.1 Establish a procedure to regularly assess minimum staffing and overall staffing needs of the department. This process should document and incorporate criteria to assess staffing levels, such as calls for service, other workload, community input, and other relevant factors. As BPD prepares for the rollout of a new software system, BPD should consider how to best align the program’s capabilities with this assessment process.

Management Response: BPD agrees with this recommendation in that regular assessments assist the department with the best allocation and deployment of resources. Our staffing needs may fluctuate as priorities change, but our responsibility to meet public safety demands is always paramount.

Proposed Implementation Plan: Internal evaluations will be completed annually to address constantly changing conditions, call volume, crime data and other external factors. The reimagining public safety efforts may also necessitate changing focus and deployment strategies. BPD will explore engaging outside consultants every ten years to evaluate patrol staffing levels so as to have a useful body of data for evaluation (for example; tying staffing evaluations to census reports).

Proposed Implementation Date: Estimated completion within 18-24 months from date of audit response.

2.2 Document and define the Patrol Unit’s minimum staffing levels in a publicly assessable format.

Management Response: Agree.

Proposed Implementation Plan: BPD will update the department webpage to include information on beat structure, teams, and deployment. This will also include current beat officer assignment.

Proposed Implementation Date: Estimated completion within 6 months from date of audit response.

2.3 Document the results of staffing assessments along with the assessment criteria. Incorporate results into staffing projections for budgetary decision making, including establishing a sufficient and appropriate overtime budget.

Management Response: Agree. Our staffing needs may fluctuate as priorities change, but our responsibility to meet public safety demands is always paramount.

Proposed Implementation Plan: Internal evaluations will be completed annually to address constantly changing conditions, call volume, crime data and other external factors. BPD will explore engaging outside consultants every ten years to also evaluate this item.

Proposed Implementation Date: Estimated completion within 18-24 months from date of audit response though this is subject to change as it is part of the overall budget process.

- 3.1** Update the department overtime policy to address the fact that there currently is no limit to the number of consecutive days worked and determine the appropriate limit for overtime that is enforceable with the goal of avoiding officer fatigue. The department may examine other jurisdictions' overtime limits as possible criteria.

Management Response: Agree.

Proposed Implementation Plan: BPD will review existing policy and ensure that any policy updates or clarification are completed. BPD will conduct research to review fatigue mitigation programs and contact other agencies to learn what they are using successfully. A byproduct of reduced staffing can be increased or excessive overtime where minimum staffing levels or public safety needs necessitate police response. The Department will explore options to develop data collection and monitoring within the electronic staffing solution to be able to regularly assess if there is an issue.

Proposed Implementation Date: Estimated completion within 24 months from date of audit response.

- 3.2** Work to implement a staffing software solution that integrates overtime management and scheduling software. Develop management reports that provide timely, accurate, and complete information on overtime usage. Develop a process for filling overtime shifts on a voluntary and mandatory basis, including supervisor approval. Build in warnings for when an individual is approaching overtime limits and an approval process for allowing individuals to exceed limits when deemed necessary according to the policy.

Management Response: BPD agrees that a staffing software solution could assist with overtime management and scheduling needs.

Proposed Implementation Plan: BPD is already heavily engaged in seeking a software solution. The RFP process is completed, and the vetting process is nearing completion to select the vendor. Following completion of a contract, the steps towards implementation will begin. The Department will have to rely on Information Technology for implementation, consequently timing will depend how this project fits the PD/IT workplan.

Proposed Implementation Date: Estimated completion within 24 months from date of audit response.

4.1 Update A.R. 2.10 and other department policies to explicitly include guidance around department agreements for work for outside entities, which is paid for by reimbursements to the City from the outside entities. Internal procedures should include appropriate criteria to identify and document the benefit to the City gained by work for outside entity agreements, and to allocate resources in a way that does not negatively impact City operations. Additionally, BPD should document their criteria for when officers are not available or eligible for work for outside entities.

Management Response: Agree.

Proposed Implementation Plan: BPD will work with the City Manager’s Office to identify necessary adjustments to the CoB A.R.2.10, current BPD practices engaging in reimbursable service contract, and the overall administration of departmental agreements for work with outside entities.

The Department will create a webpage on the Department’s website with information explaining the process for requesting services. This would include a point of contact to discuss criteria and evaluation of service requests, including staffing impacts. Also included will be clear language explaining that public safety response will be the highest priority.

Proposed Implementation Date: Estimated completion within 12 months from date of audit response.

4.2 In consultation with the City Attorney, create contracts with outside entities in compliance with City policies and applicable laws.

Management Response: Agree.

Proposed Implementation Plan: BPD will work with the City Manager’s Office, and in consultation with the City Attorney, to determine appropriate contract(s) for reimbursable service contracts.

Proposed Implementation Date: Estimated completion within 24 months from date of audit response.

4.3 Develop an application for BPD’s services that is publicly available and accessible online to any interested party. Set pay uniformly according to rank and hourly rate and include a reasonable fee that covers the expenses of administering work for outside entities including workers compensation, fuel, use of equipment, and any other actual or potential costs to the City.

Management Response: Agree.

Proposed Implementation Plan: We intend to create a webpage on the Department’s website with information explaining the process for requesting services. This would include a point of contact to discuss criteria and evaluation of service requests, including staffing impacts. Also included will be clear language explaining that public safety response will be the highest priority.

Proposed Implementation Date: Estimated completion within 12-18 months from date of audit response.

4.4 BPD should reconcile invoices with the amounts received for work with outside entities at regular intervals. BPD should also implement procedures to check invoices for errors prior to billing outside entities.

Management Response: Agree.

Proposed Implementation Plan: BPD will discuss possible solutions with other city stakeholders, including the Finance Department.

Proposed Implementation Date: Estimated 12 months from date of audit completion.

4.5 Explore ways to clearly account for different funds to track revenues and expenses.

Management Response: Agree.

Proposed Implementation Plan: BPD will discuss possible solutions with other city stakeholders, including other city departments.

Proposed Implementation Date: Estimated 12 months from date of audit completion.

Methodology and Statement of Compliance

Methodology

We audited the Berkeley Police Department's (BPD) budget and operations for fiscal years (FY) 2015 through 2020. We assessed historic funding levels going as far back as FY 1970 when data was available. We performed a risk assessment of BPD's practices and procedures to identify potential internal control weaknesses, including fraud risks, within the context of our audit objectives. This included a review of selected policies and procedures, as well as interviews with subject matter experts and BPD staff.

To gain an understanding of BPD's operations and internal controls and to achieve our audit objectives, we reviewed the following:

- Biennial budget reports, financial reports, and census data summarizing historic trends in BPD's budget and staffing.
- State and federal laws governing police overtime, staffing, and work with outside entities.
- Previous audit recommendations, staffing assessments, and BPD's organization chart informing BPD's departmental structure and practices.
- General orders and protocols detailing BPD's limits on overtime and minimum staffing.
- Existing agreements for BPD's police services including grants, mutual aid, special events, and outside entities.
- Written procedures and common forms used by BPD supervisors to monitor and approve overtime.
- National media on police budgeting and reimagining policing.
- Professional literature on effective management of overtime and staffing in police operations.
- Other audits and police practices in comparison cities related to police budgeting, staffing and overtime.

We also conducted interviews with:

- BPD police officers in the Operations and Support Services departments spanning the ranks of police officer, sergeant, lieutenant, captain, and chief.
- Berkeley Police Association President and Vice President.
- BPD administrative staff including the Administrative and Fiscal Services Manager and the Department's payroll clerks.
- City leadership including the Manager of the Budget Office, the Berkeley City Attorney, and City Councilmembers.
- Peer auditors in the City of San Jose that conducted an audit on police staffing.

We analyzed:

- The City's financial system payroll data for BPD from FY 2019 to FY 2020.
- BPD budget and expenditures for each year from FY 2015 to FY 2021; BPD budgets for FY 1960, 1970, 1980, 1990, 2000, and 2010.
- BPD's record of invoices for work with outside entities.

Data Reliability

We assessed the reliability of payroll data by reviewing it for completeness, appropriateness, and consistency. We determined it is sufficient and reliable for the purposes of our work. The data captures that date of the hours, the staff member, authorized and actual position title, and hour code. We noted a limitation in the data in that the position title associated with individuals is their current title and does not necessarily reflect the title at the time the hours were earned. Additionally, the data does not capture adjustments made to correct labor distributions and project charges. These limitations do not significantly impact our use of the data.

Independence

Payroll Audit is a Division of the City Auditor's Office. Payroll Audit Division performs citywide payroll functions and is a module leader for the payroll/personnel module used to record payroll costs. BPD is solely responsible for identifying the payroll codes applicable to their staff's time reported on timesheets and overtime forms and for providing sufficient documentation to support those hours for payroll processing. Payroll Audit is not responsible for verifying the employee's time or the use of budget codes by the department. Payroll limits its review to ensuring that BPD payroll clerks provide the appropriate and sufficient documentation for the reported time.

To reduce the threat to our independence, we limited our work to exclude areas overseen by our office. We also selected data from closed payroll periods that was in read only status and we traced select data back to source documents to verify that the data is reliable.

We consulted with representatives from the Government Accountability Office to discuss the engagement and the safeguards we put in place. They determined that with the safeguards mentioned above we had reduced the identified threats to our independence to an acceptable level to proceed with the audit.

Statement of Compliance

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix I. BPD Funding Streams

City Funding

General Fund. The General Fund is the chief operating fund in the City. It accounts for all financial resources of the general government, except those required to be accounted for in another fund.

Parking Meter Fund. The Parking Meter Fund is one of the City's major enterprise funds. It accounts for the collection of coins from the City's parking meters and for the purchasing, leasing, installing, repairing, maintaining, operating, removing, and policing of the meters.

State Funding

State funding to BPD derives from a combination of grant funding and revenue from state ballot measures.

Alcohol and Beverage Control (ABC) Grant. This program focuses on reducing the number of alcohol related calls for service to BFD and reducing the availability of alcohol to underage persons. It includes a partnership with UC Berkeley to work with student groups in organized events involving alcohol, including "operation trapdoor" to identify students using fake IDs, and conducting patrol on house parties.

State Public Safety Sales Tax Proposition 172. Ballot measure approved in 1993, imposed a state sales tax to be used for local public safety activities. As of FY20-21, it formed 0.25 percent of the total sales tax rate in Alameda County. The state distributes Proposition 172 revenues to each county based on its proportionate share of statewide taxable sales.

Citizens' Option for Public Safety (COPS). The State Controller's Office allocates the Citizens' Option for Public Safety funds to law enforcement agencies according to the relative population for each county and city. In FY 2021, Berkeley was projected to be allocated \$186,209 COPS funding. The allocations may be slightly different from the projections made by the State Controller's Office due to rounding.

Asset Forfeiture Fund. Asset forfeiture is the process by which legal ownership of an asset is transferred to BPD. According to the Health and Safety Code Section 11495, the funds received by the law enforcement agencies are deposited into an account maintained by the controller, county auditor, or city treasurer. From there, they are distributed to law enforcement agencies at their request. Sixty-five percent of State asset forfeiture proceeds are distributed to state and/or local law enforcement agencies that participated in the seizure of the assets. Fifteen percent of those funds must be deposited in a special fund maintained by a council made up of local government entities. These funds are restricted to be used for the sole purpose of funding programs designed to combat drug abuse and divert gang activity (Health and Safety Code 11489). In FY 2019, Berkeley PD received \$127,629.88 in state asset forfeiture funds from Alameda, Contra Costa, and Solano County. There were no reported state asset forfeiture funds received by Berkeley PD in FY 2020.

Mutual Aid from State Agencies. Mutual aid costs are paid for by the state for instances when the state becomes involved. Otherwise, the cost of mutual aid is the responsibility of each agency participating. Five state agencies have specific responsibilities to support local law enforcement during emergency situations: California Highway Patrol, State Military Department, Department of Justice, Department of Corrections, and the Officer of the California State Police.

Federal Funding

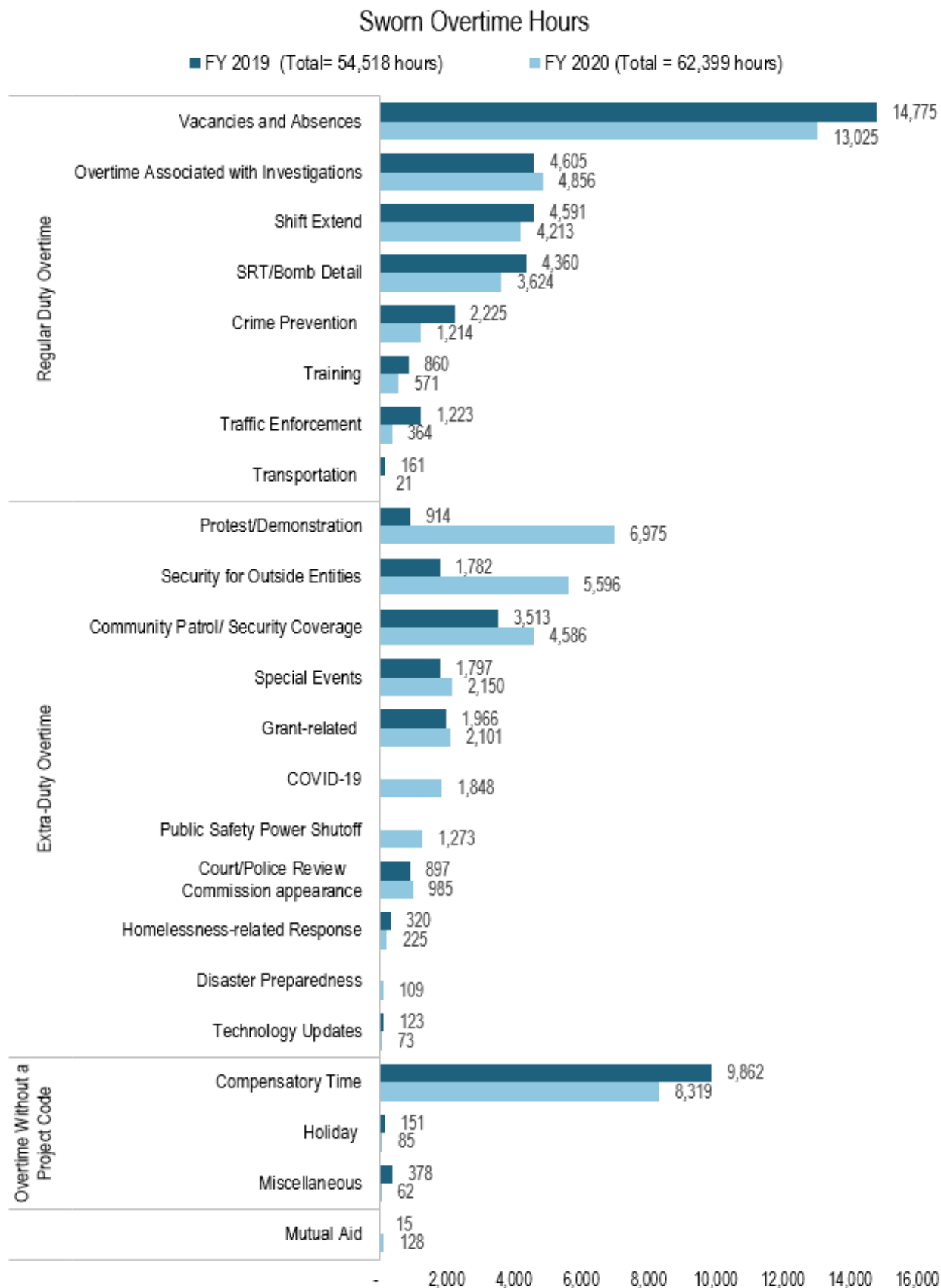
Federal funding for BPD derives exclusively from grants. BPD has received funding from the following grants:

Alameda County Justice Assistance Grant (JAG) Grant. JAG-funded projects address crime by improving the effectiveness and efficiency of criminal justice systems, processes, and procedures. BPD receives funding from the JAG as a member of a consortium with the Alameda County Sheriff's office and other cities of Alameda County. As part of the JAG Consortium, BPD used funds to supplement overtime and benefits for sworn and non-sworn personnel engaged in targeted crime suppression activities.

Office of Traffic Safety (OTS) Selective Traffic Enforcement Program (STEP). The goal of the STEP program is to reduce the number of persons killed and injured in traffic crashes using "best practice" strategies. The grant funds strategies related to traffic enforcement including but not limited to: DUI checkpoints, DUI saturation patrols, warrant service operations, stakeout operations, educational presentations, court stings. There is also a media element to enhance deterrence.

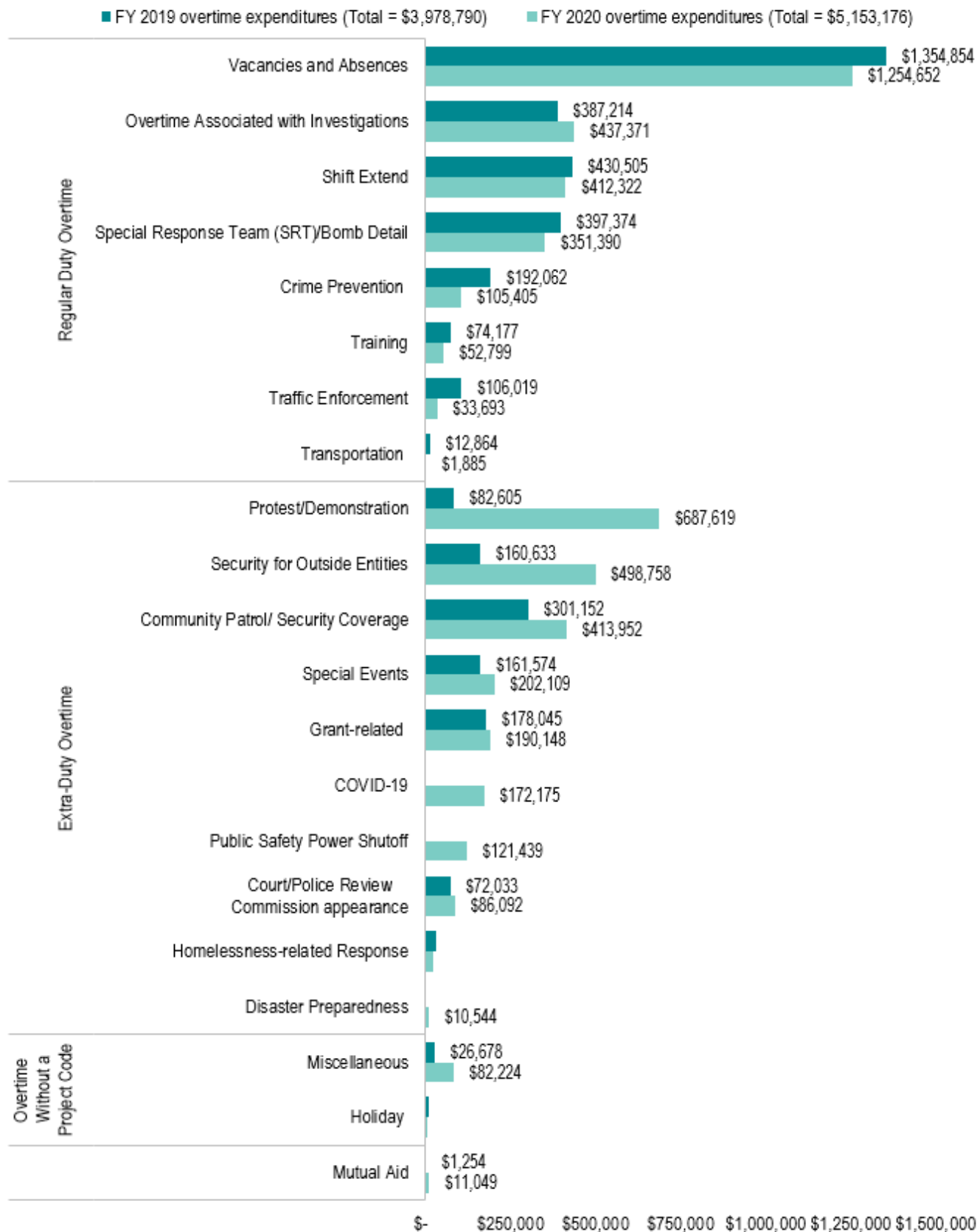
Office of Traffic Safety (OTS) Avoid the 21 Campaign. The grant activities target those who drink too much and get behind the wheel. DUI/Driver's License Checkpoints are a key component of the grant, being highly visible, highly publicized events. Officers staff DUI/Driver License Checkpoints, multi-agency DUI Task Force deployments, and local DUI saturation patrols for each partnering agency.

Appendix II. Reasons for Overtime: Hours and Expenditures



Source: BPD Payroll Data

Sworn Overtime Expenditures



Source: BPD Payroll Data

Appendix III. Extraordinary Duty Form



BERKELEY POLICE DEPARTMENT EXTRAORDINARY DUTY REPORT

Name _____ To _____
(Last) (Initials) (Badge #) (Rank) (Div/Team) (Regular duty hours)

Overtime worked _____
(Date) (Day of Week) (Beginning) (Ending) (Hours) (Minutes) (Days Off)

Reason:

Shift Extended _____ Pre-approved by: _____
(Case #) (Signature Mandatory) (Badge#)
 Special Detail _____
(Case #) (Explanation Mandatory)
 Backfill/Shortage _____
(For Badge #) (Explanation Mandatory)
 Court _____
(Attach Subpoena) (Case #) Did you testify? No Yes (Hours) (Minutes)

Premium Pay: SRT FTO EOD Phone Standby

On-duty _____ Off-duty _____ Comp time / Vacation time taken this week? Yes No
(Hours) (Minutes) (Hours) (Minutes)

Signed: _____ Prefer: Time / \$\$\$
(Signature) (Date) (Time) (Circle One)

Approval

Budget Code:	Activity Code:	Project Code:
<input type="checkbox"/> 1301 Regular OT	<input type="checkbox"/> 6901 Admin	<input type="checkbox"/> XX3069 SRT
<input type="checkbox"/> 1303 Hourly OT	<input type="checkbox"/> 6902 Media	<input type="checkbox"/> XX3070 Court (needed)
<input type="checkbox"/> 1311 Special Events	<input type="checkbox"/> 6903 IAB	<input type="checkbox"/> XX3071 Court (NOT needed)
<input type="checkbox"/> 1312 Training	<input type="checkbox"/> 7002 Prof. Standards	<input type="checkbox"/> XX3072 PRC Appearance
<input type="checkbox"/> 1313 Vacation Relief	<input type="checkbox"/> 7003 P&T / Court / PRC	<input type="checkbox"/> XX3A01 Workers Comp
<input type="checkbox"/> 1315 Misc.	<input type="checkbox"/> 7101 SS Admin	<input type="checkbox"/> XX3A02 Parental Leave
<input type="checkbox"/> 1316 Sick Time Relief	<input type="checkbox"/> 7004 Jail	<input type="checkbox"/> XX3A03 Military Leave
<input type="checkbox"/> 1317 Court / PRC	<input type="checkbox"/> 7206 Comm. Center	<input type="checkbox"/> XX3A04 Replace LD (on duty)
<input type="checkbox"/> 1338 Work Private Parties	<input type="checkbox"/> 7104 Records/Liaison/Warr	<input type="checkbox"/> XX3A05 Replace LD (off duty)
	<input type="checkbox"/> 7202 Operations	<input type="checkbox"/> XX3A06 Suspension
	<input type="checkbox"/> 7301 Investigations	<input type="checkbox"/> XX3A07 Administrative Leave
	<input type="checkbox"/> 7302 Traffic	<input type="checkbox"/> XX3A08 Leave w/o pay
	<input type="checkbox"/> 7303 Parking	<input type="checkbox"/> XX3A09 Under Strength
	<input type="checkbox"/> 7304 SEU	<input type="checkbox"/> XX3A10 Shift Extended
	<input type="checkbox"/> 7305 CAU	<input type="checkbox"/> XX3A11 Crime Prevention
	<input type="checkbox"/> 7306 ABC	<input type="checkbox"/> XX3A12 Community Events
	<input type="checkbox"/> 7307 Crime Scene	<input type="checkbox"/> XX3A13 Auto Theft
		<input type="checkbox"/> XX3A14 Fraud
		<input type="checkbox"/> XX3A15 Homicide
		<input type="checkbox"/> XX3A16 Property Crimes
		<input type="checkbox"/> XX3A17 Robbery
		<input type="checkbox"/> XX3A18 SVU / Sex Crimes
		<input type="checkbox"/> 15PO02 SVU / YSD
		<input type="checkbox"/> 15PO10 SVU / DV
		<input type="checkbox"/> 15PO01 Traffic / FAIT
		<input type="checkbox"/> XX3A19 SEU / Narcotics
		<input type="checkbox"/> XX3A20 SEU / Prostitution
		<input type="checkbox"/> XX3A21 Santa Rita Transportation
		<input type="checkbox"/> XX3A22 Hospital Transportation
		<input type="checkbox"/> XX3A23 Other Transportation
		<input type="checkbox"/> XX3A24 Telegraph (Fri / Sat)
		<input type="checkbox"/> XX3A25 City Council
		<input type="checkbox"/> XX3A26 Private Property (General)
		<input type="checkbox"/> XX3A72 DUI Checkpoint
		<input type="checkbox"/> XX3B74 Private Property (UCB)
		<input type="checkbox"/> XX3B75 Private Party (BUSD)
		<input type="checkbox"/> XX8P14 EOD
		<input type="checkbox"/> XX8P15 Range Training / FTU TTT
		<input type="checkbox"/> XX8P16 DT Training / DTU TTT
		<input type="checkbox"/> XX8P17 Demonstrations
		<input type="checkbox"/> XX8P18 Special Training
		<input type="checkbox"/> Other: _____

Time / \$\$\$* _____
(Circle One) *Grants \$\$\$ only

Total Hours _____
(Hours) (Minutes)

(Supervisor) (Date) (Commander) (Date) (Div. Commander) (Date)

Revised 9/2014

Overtime Reference Information – Overtime regulations are codified in General Order D-15 and Union Agreements between the City and the BPA or Local 1021. See referenced materials for more detail.

- **Whether an employee shall be compensated for overtime by compensatory time off or by payment shall be at the sole discretion of the employee's department director. MOU BPA §19.1.1.2.**
- No employee may work overtime or extend his or her shift without express prior approval of his or her supervisor. General Order D-15 §17.
- For paid overtime to be credited, an employee is required to submit an Extraordinary Duty Report immediately following the overtime assignment. General Order D-15 §17.
- Unless specifically requested by a commanding officer, employees shall not work overtime on their regularly scheduled shift on days they would normally work. MOU BPA §19.1.
- On days when they have taken paid time off for any reason other than workers' compensation, they are not automatically restricted from working overtime during those same days on shifts other than their own. MOU BPA §19.1.
- An employee who is placed on emergency on-call status on his or her regularly scheduled day off shall be paid or be credited with compensatory time off at a one quarter (¼) time rate. General Order D-15 §40(a) / MOU BPA §19.3.1.
- If the emergency on-call status continues into a second day during the month, an employee placed on emergency on-call status shall be paid or be credited with compensatory time off at a one quarter (¼) time. General Order D-15 §40(b) / MOU BPA §19.3.2.
- Emergency Overtime - An employee is guaranteed at least three (3) hours overtime when called to emergency overtime duty from his or her residence. MOU BPA §19.7.
- Unless otherwise approved by a Commanding Officer, all court overtime shall be paid. General Order D-15 §27 / MOU BPA §20.1.2.
- A sworn employee who makes an off-duty court appearance shall receive a minimum of four (4) hours overtime unless his or her scheduled duty reporting time, regular shift or overtime shift is less than four hours after the scheduled court appearance in which case the employee will receive overtime in the lesser amount. General Order D-15 §28 / MOU BPA 20.1.3.
- For off-duty, out-of-town court appearances, travel constitutes court overtime and is determined by the round trip time from the Hall of Justice. General Order D-15 §31 / MOU BPA D-15 20.1.5.
- Sworn employees who are placed on telephone stand-by for the court will be compensated by earned compensatory time as follows: General Order D-15 §34 / MOU BPA 20.2.1-20.2.2.
 - Duty Day: One hour minimum compensatory time and hour for hour thereafter.
 - Day Off: Two hour minimum compensatory time and hour for hour thereafter.
- Subpoena should be attached and case number indicated if either or both are available. General Order D-15 §35(a) / MOU BPA 20.2.2.1.
- Report is to be completed by the officer and shall specify the case number and the name of the Deputy District Attorney placing him or her on telephone stand-by. General Order D-15 §35(b) / MOU BPA D-15 20.2.2.2.

SEIU Local 1021 Only

- Employees who are called into work outside their normal work schedule shall be paid overtime compensation for actual time worked. The minimum time for which such overtime compensation shall be paid shall be four (4) hours. If such overtime work is performed prior to the beginning of the regularly scheduled work period and overtime continues into the regularly scheduled work period without a break in service, compensation shall be paid only for the actual time worked. Memorandum Agreement SEIU Local 1021 §14.5.

Appendix IV. Sample BPD Patrol Timesheet

TIMESHEET – OPERATIONS DIVISION

Month, Day, 2021 – Month, Day, 2022 [Six-month period]

Team 1 – Lieutenant 1 0600-1600 M/T/W/T				Team 2 – Lieutenant 1 1100-2100 M/T/W/T							
Sergeant 1		Sergeant 2		Sergeant 3		Sergeant 4					
Officer 1	Badge #	Officer 6	Badge #	Officer 11	Badge #	Officer 16	Badge #				
Officer 2	Badge #	Officer 7	Badge #	Officer 12	Badge #	Officer 17	Badge #				
Officer 3	Badge #	Officer 8	Badge #	Officer 13	Badge #	Officer 18	Badge #				
Officer 4	Badge #	Officer 9	Badge #	Officer 14	Badge #	Officer 19	Badge #				
Officer 5	Badge #	Officer 10	Badge #	Officer 15	Badge #	Officer 20	Badge #				
Team 3 – Lieutenant 2 1530-0130 M/T/W/T				Team 4 – Lieutenant 2 2030-0630 M/T/W/T							
Sergeant 5		Sergeant 6		Sergeant 7		Sergeant 8					
Officer 21	Badge #	Officer 26	Badge #	Officer 30	Badge #	Officer 35	Badge #				
Officer 22	Badge #	Officer 27	Badge #	Officer 31	Badge #	Officer 36	Badge #				
Officer 23	Badge #	Officer 28	Badge #	Officer 32	Badge #	Officer 37	Badge #				
Officer 24	Badge #	Officer 29	Badge #	Officer 33	Badge #	Officer 38	Badge #				
Officer 25	Badge #			Officer 34	Badge #	Officer 39	Badge #				
Team 5 – Lieutenant 3 0600-1830				Team 6 A - Lieutenant 3 1130-Midnight		Team 6 B - Lieutenant 4 1400-0230					
Sergeant 9		Sergeant 10		Sergeant 11		Sergeant 12					
Officer 41	Badge #	Officer 46	Badge #	Officer 51	Badge #	Officer 56	Badge #				
Officer 42	Badge #	Officer 47	Badge #	Officer 52	Badge #	Officer 57	Badge #				
Officer 43	Badge #	Officer 48	Badge #	Officer 53	Badge #	Officer 58	Badge #				
Officer 44	Badge #	Officer 49	Badge #	Officer 54	Badge #	Officer 59	Badge #				
Officer 45	Badge #	Officer 50	Badge #	Officer 55	Badge #	Officer 60	Badge #				
Vacation Relief M-TH: Sergeant 15 M-TH: Officer 71 Sergeant 16 FSS Officer 77				Team 7 - Lieutenant 4 1800 - 0630				Bikes: Sergeant 17 Officer 72 Badge # Officer 73 Badge # Officer 74 Badge # Officer 75 Badge # Officer 76 Badge #			
Sergeant 13		Sergeant 14									
Officer 61	Badge #	Officer 66	Badge #								
Officer 62	Badge #	Officer 67	Badge #								
Officer 63	Badge #	Officer 68	Badge #								
Officer 64	Badge #	Officer 69	Badge #								
Officer 65	Badge #	Officer 70	Badge #								

Official [Date] Timesheet

Source: Berkeley Police Department

Mission Statement

Promoting transparency and accountability in Berkeley government.

Audit Team

Erin Mullin, Senior Auditor
Alejandra Barrio Gorski, Auditor I

City Auditor

Jenny Wong

Office of the City Auditor

Phone: (510) 981-6750

Email: auditor@cityofberkeley.info

Website: www.cityofberkeley.info/auditor

Copies of our audit reports are available at
www.cityofberkeley.info/Auditor/Home/Audit_Reports.aspx



BERKELEY CITY AUDITOR

