

NOTICE OF SPECIAL SHELBY COUNTY BOARD MEETING

March 28, 2022

SHELBY COUNTY BOARD SPECIAL MEETING AGENDA

April 5, 2022 – 5:30 P. M. in Courtroom A

1. Call to Order – Pledge of Allegiance
2. Roll Call
3. Public Body Comment
4. Closed session pursuant to 5 ILCS 120/2 (C) 29- John Vander Burgh,
CPA, 20/20 Forensics
5. Adjournment

Please silence cell phones during the Board meeting.

STATE OF ILLINOIS

ROLL CALL VOTES IN COUNTY BOARD

SHELBY COUNTY

April 5, 2022 SPECIAL MEETING

		ROLL CALL			QUESTIONS							
			4.5/2022	1/2022	ON MOTIONS TO		ON MOTIONS TO		ON MOTIONS TO		ON MOTIONS TO	
COUNTY BOARD MEMBERS		MILEAGE	P.M.	P.M.	AYE	NAY	AYE	NAY	AYE	NAY	AYE	NAY
	BARR, KENNETH	50	✓									
	BENNETT, BARBARA	40	✓									
	BENNETT, MARK	32	✓									
	BOEHM, TERESA	0	✓									
	COFFMAN, BRYON	48	✓									
	COX, CASSI	0	✓									
	DRNJEVIC, DENNIS	22	✓									
	DURBIN, JESSE	12	✓									
	EDWARDS, JULIE		✓									
	GERGENI, GARY	26	✓									
	HITE, ROD	56	✓									
	KESSLER, MATT	44	A									
	LENZ, LARRY	26	A									
	ONGMAN, SHARON	0	✓									
	ORMAN, ROBERT	34	✓									
	PATTERSON, GARY	0	✓									
	PEARCY, DEREK	20	✓									
	SIMPSON ROBERT	32	✓									
	SLIFER, JEFF	32	✓									
	SWITS, DAVID	34	✓									
	TATE, DON	40	A									
	WILLIAMS, LYNN	0	✓									
		0										
		0										

SPECIAL MEETING OF THE SHELBY COUNTY BOARD
April 5, 2022, at 5:30 PM

The Shelby County Board met on Tuesday, April 5, 2022, at 5:30 P.M. in Courtroom A of the Courthouse in Shelbyville, Illinois.

Chairman Coffman called the meeting to order and all those present recited the Pledge of Allegiance.

County Clerk Jessica Fox called the roll. Kessler, Lenz, and Tate were absent.

Chairman Coffman called for Public Body Comment.

Public body comments were: The public inquired about access to the audit report distributed so they could follow along while the report was given. Reports were not provided to the public. It was asked if the board planned to do any type of remediation plan to current deficiencies uncovered by the audit and report those plans back to the public. The board was asked to "do legal this time."

John Vander Burgh, CPA with 2020 Forensic Accounting, was hired by the board to do a payroll audit of the Shelby County Sheriff's office from 2015 – July of 2020. Vander Burgh presented the board with a report which included a high-level review of what did happen and the net results. Vander Burgh encouraged the board to listen to his report, review the written report later and he would be happy to come back and discuss or answer questions. Vander Burgh also explained their report is not an indication or whether fraud had occurred but to identify if there were indicators of fraud.

Vander Burgh's report provided an in-depth review of numerous errors, including failure to follow the written FOP contract, specific pay rate problems, errors on vertical and horizontal movement, and the change from deputies working 5 – 8 hour shifts to 4 – 10-hour shifts, which created much of the errors. Vander Burgh noted several errors in the written contract such as incorrect dates.

Other findings pointed out were insurances not withheld properly, as well as retirement/social security withholding errors, personal days in excess of allowance, vacation deficit and errors related to comp time.

Vander Burgh stated he was aware of some of these issues being corrected within the past couple of years but informed the board that Federal and State agencies could demand fixes and IMRF had requested the past 3 years be corrected.

Overall Vander Burgh reported a total value of errors of \$759,379, with a net result of these errors being a net underpayment to employees of \$6,238.

Shelby County Board
April 5, 2022

Vander Burgh stressed the County needs to fix the level of problems and inconsistencies and take steps to improve the policies and procedures which pose financial risk to the department, county, and staff.

Vander Burgh's figures are that \$326,315 was owed to the county, \$332,398 was owed to employees, \$16,677 was underpaid by the county for taxes for improper holiday and overtime, \$83,789 was overpaid by the county to SLEP, taxes on hours not worked and improper deductions. The absolute value of errors was \$759,378, with an end result of due to/from employees of \$6,283.

Discussion/questions from the board included the need for legal counsel in this matter. State's Attorney Nichole Kroncke stated she could have a special prosecutor appointed if the board decided to do so. The Attorney General is currently reviewing this in terms of a criminal case. Fees/Salaries currently reviews all payroll reports submitted monthly.

Vander Burgh encouraged the board members to spot check things in the future, ask questions if they are in doubt, identify errors and to make sure the written union contracts are being followed. Vander Burgh felt a culture had been created of not caring what the contracts say. Departments need to be held accountable to making sure their employees are following the contracts put in place.

Chairman Coffman encouraged the board members to go home and review the payroll audit, come up with questions and they board will have Vander Burgh back at a later date to offer suggestions and revisit what had been discussed at tonight's meeting.

There was no further business to come before the county board.

Williams made motion to adjourn. Simpson seconded said motion, which passed by voice vote (19 yes, 0 no) and the meeting was adjourned at 6:50 PM.



Jessica Fox
Shelby County Clerk and Recorder

**Shelby County Illinois
Payroll Audit – Sheriff Department**

FILED
APR 05 2022

Jessie Fox
SHELBY COUNTY CLERK

20/20
FORENSIC
ACCOUNTING

April 5, 2022

Shelby County, IL County Board
C/o Bryon Coffman, Chairman

Introduction

20/20 Forensic Accounting was engaged to audit the payroll for the Shelby County IL Sheriff's Department for the period from January 2015 through July 2020. During the engagement, we reviewed payroll records, bank accounts, collective bargaining agreements (and any modifications) as well as bank statements for the county as well as the sheriff department. We interviewed individuals within the sheriff department, County Clerk's office and the Treasurer's office. Our report is not intended to declare whether fraud has occurred but rather to identify if there are indicators of fraud. The decision about whether an item is fraud or error is determined by a trier of fact.

Executive summary

In its simplest form, the payroll function could be summarized as taking the hours a person worked multiplied by a rate of pay then subtracting deductions to arrive at a net pay. We found errors in each portion of that function. We will identify several of them in detail and also several in topic only. The total value of the errors included in our report is \$759,379. The net result of these errors is a net underpayment to employees of \$6,283. In addition, the amount of payments to taxing bodies is \$67,112 more than should have been paid. The level of problems and inconsistencies should be alarming to the county and steps should be taken to mitigate the financial risk that your inadequate policies and procedures pose to the department, county and staff. The county board should be aware that there are numerous errors, inconsistencies and inadequate records which could cause numerous State and Federal agencies to demand actions to correct your prior and future actions.

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Association of Certified Fraud Examiners / Certified Fraud Examiner

Owed to County

Impact of 4/10 vs 5/8 work schedule	276,786
Rate of pay error (2) Employees	1,266
Health Insurance not deducted	8,880
Excess personal days	11,727
Extra Comp time	25,790
Vacation deficit	1,866

Subtotal	<u>326,315</u>	B
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Owed to Employees

4/10 vs 5/8 Overtime	228,854
SLEP Tier 2 from employee pay	16,424
Worked Holiday Comp Time 12 v 15	20,352
Worked Holiday Paid time 12 v 15	14,106
Over 80 hours paid at straight time	10,622
Benefit pay not awarded	42,240

Subtotal	<u>332,598</u>	A
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Underpaid by County

Taxes avoided by improper holiday pay	2,772
Taxes avoided on overtime not paid	13,905

Subtotal	<u>16,677</u>
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Overpaid by County

Taxes paid on hours not worked	54,389
SLEP on wages not eligible	26,279
Taxes on improper deductions	3,121

Subtotal	<u>83,789</u>
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Absolute value of errors	<u>759,379</u>
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Net due To/(From) Employees (A-B)	<u>6,283</u>
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Summary of payroll procedure

The Sheriff Department operates under a Collective Bargaining Agreement (CBA) which is a contract that governs the expectations for the employer and employee. During the audit period there were 2 different CBAs in operation. If there is a modification or amendment to the CBA then a document should be filed with the County Clerk to record such changes. Payroll hours and benefits are calculated at the sheriff's department and submitted to the Treasurer's office for processing payments to employees. Several procedures changed during the scope of the audit period. Because of these changes, some findings are only applicable to part of the audit period.

Findings

Rate of Pay

Vertical Movement

The labor contract specifies in Section 21.3 that on the anniversary date the employee will advance one step on the pay schedule. This creates two pay schedule movements each year. A Horizontal pay adjustment would be on September 1 of each year and a vertical pay adjustment would be made at the anniversary date of each employee. During the entire audit period for all applicable employees, it was observed that both rate-of-pay adjustments were made at the September 1 date. This would have the net effect of depriving the employees of an increased rate of pay from their anniversary date until September 1. This would result in funds owed from the County to the employees.

Contract date

The contract applicable to 2015 through 2017 contained a provision in section 21.1 which indicated that the years of service of the staff as of 9/1/2011 will be used to determine their years of service for the salary schedules. There is potential that this was an oversight during the preparation and execution of the contract, but it is what was signed by representatives of the county, the sheriffs dept and the Fraternal Order of Police (FOP) legal counsel. Said contract was then filed with the County Clerk and there were no modifications filed in relation to that contract. This provision will cause all employee pay to be inaccurate for the 2015 to 2017 contract up until the new contract was ratified (12/11/2020).

Specific pay rate problem

From December 2015 through August 2016 Tyler Koonce was paid at a rate that was arbitrarily \$.50/hour above the pay schedule. This impacted 1,600 hours of regular pay and 11 hours of overtime. This amounts to \$808.25 overpaid to him for this issue alone. At September 2016 he was placed on the appropriate pay rate according to the schedule.

From December 2015 through April 2016 David Myers was paid at a rate that was arbitrarily \$.50/hour above the pay schedule. This impacted 888 hours of regular pay and 19 hours of overtime. This amounts to \$458.25 overpaid to him for this issue. In addition, David Myers was one of the only instances of a vertical pay movement that was observed during the audit period.

The contract specifies that employees not on Unit A or B payroll schedules that were hired after the date of the contract would be paid at a starting rate of \$24,000 per year. They would not receive a pay raise until their 4th anniversary of service. They consistently paid at a rate that did not agree with the contract and raises were not in accordance with the contract.

Contract inconsistency

The contract pay for Jail Matron/Cook, Janitor and Secretary Bookkeeper is identified in the 2011 through 2014 contract (page 17) as starting at \$24,000 and increasing base pay by \$1,000 per year for years 2011 through 2014. In the contract for 2015 through 2018 the language wasn't changed and an employee being hired before the 2015 contract is ratified would be paid \$27,000 and after the contract would be at \$24,000. In either case the employees weren't paid at rates consistent with the contract.

Method of turning in payroll to treasurer

The initial procedure for how employee pay was provided to the treasurer was inherently problematic. Payroll would be turned in on a Monday for payroll on that Friday for hours worked through Saturday. In a system that considers actual time worked for overtime purposes you could never have an accurate payroll. During the audit period the procedure was changed to pay in arrears which is a more fiscally appropriate procedure.

Four ten-hour days vs five eight-hour days

Starting in 2015, deputies started working a schedule that included four ten-hour days followed by being off for four days. This created two separate issues. The first of these issues is that a schedule of 4 days on/4 days off will not provide the expected 40 hours in a week as expected by the contract. We used the duty schedules to compare to the payroll to determine how many hours were expected to be worked versus what was actually worked. Additionally, the contract stipulates that any hours worked in excess of 8 hours in a day and 40 in a week are to be considered overtime. Overtime is required to be paid at time and a half. When an employee worked a 10 hour day they were paid at straight time when it should have been 8 hours at straight pay and 2 hours at time and a half. This is more problematic when you consider that deputies in the SLEP Tier 2 do not get to count overtime as wages eligible for their pension. SLEP Tier 2 is for any deputy hired after January 1, 2011. During the course of our review, it was noted that the total amount of \$228,854.47 was underpaid to deputies for overtime. Tier 1 employees were underpaid \$119,160.23 and Tier 2 deputies were underpaid \$109,694.24. The Tier 2 employees had their gross pay based on a 10 hour day reported as wages for pension purposes when only 8 hours should have been reported. This caused the county to withhold \$16,424.54 too much from deputy pay and the county paid approximately \$26,279.26 too much (assuming an average 12% county contribution). IMRF pension calculations and liabilities should be reviewed for any corrective action that should be taken in this regard.

When the deputies were working a 4 on/4 off schedule they were not working the hours anticipated by the contract. There were 11,808 hours that were paid but not worked during the audit period. The total amount of this overpayment is \$276,786.31. In addition to the overpayment to deputies for this time, there would have been payments of approximately \$54,388.51 paid to Social Security, Medicare and IMRF by the county for hours not worked.

Health Insurance not withheld appropriately

Insurance was not withheld from employee pay appropriately. The contract indicates that the employee portion of insurance should be \$40 per pay period. The payroll cycle is to pay every other week which creates 26 payrolls per year. The health insurance was only deducted twice per month (which would have been correct if there were only 24 payrolls per year). There

would be 2 months per year that would have three payrolls in the month. During these two months the health insurance was not withheld. This would create an amount that was due to the county from all employees in the sheriff department which enrolled in health insurance. There were 33 different employees involved in this error. This error causes overpayment of taxes to Social Security and Medicare. The net impact would be \$9,559. Of this amount \$8,880 was the amount owed by the employees to the County and the remaining amount is the excess amounts paid by the county for Social Security and Medicare taxes.

From the beginning of 2015 through December 2015, the contract applicable to compensation and benefits was the contract from 2011 through 2014. The amount to be deducted from employee pay referenced 2008 and 2009 which would have been two contracts prior to the 2015 payroll. There is not an amount that we attributed to this error, but we believe it to be a significant issue that the contracts are not being reviewed thoroughly enough for approval or performance against the contract.

Personal days in excess of allowance

The contract allows for 3 personal days per year for all full-time employees. These days are to become available on September 1st and are on a "use it or lose it" basis. According to the contract, a day is defined as an 8-hour day, therefore 24 hours of Personal Days would be available each year. The sheriff deputies that worked a 10-hour shift were allowed to take 30 hours of personal time (6 in excess of the amount intended by the contract). The impact of this error is that 14 different deputies incorrectly received 6 additional hours for a total of 402 hours. This results in too much being paid to the deputies for payroll, Social Security, Medicare and SLEP. The net consequence of this error is \$11,727.

Dental Insurance

Dental insurance is considered a Pre-tax benefit for Federal, State, Social Security and Medicare taxes. During 2015 through 2017 the insurance was not being treated as Pre-tax. This impacted 26 people who had dental insurance. The improper treatment caused the county to pay \$2,441.58 too much to Social Security and Medicare. The impact of this error to the employees will have been more pronounced as they paid too much to Social Security and Medicare as well as the W-2 forms will have been incorrectly too high. The impact to employees was potentially \$5,000 too much in Federal and Illinois tax that they were subjected to.

Additional Comp Time credited

Several employees received excess comp time credit of 40 hours. During the years 2015 through 2018 it was noted that there were 9 employees that were documented as having received a total of 1,000 hours of comp time above and beyond what the contract allows. The comp time results in either time off for the employee or an amount that is paid out as compensation. When looking at the net consequence of the excess comp time, the impact is the hourly rate of pay on the hours and the resulting impact on Social Security, Medicare and the employer contribution to IMRF. All of these amounts were paid for time that was not allowed within the contract. The net consequence of the excess comp time is \$25,789.83.

Accumulated Comp Time greater than allowed

The contract allows for the accumulation of Comp Time up to a maximum of 480 hours. When reviewing the records for comp time, it was observed that during the audit period of 2015 through 2020 there were 4 employees which had comp time accumulated above the 480 hours. There were 15 occurrences that were observed. We did not determine a financial impact of this error, but it is a compliance failure with the contract.

Vacation deficit

According to the contract, vacation is to be credited on the anniversary date of employment. From 2015 through 2020 vacation was granted on January 1st for all employees. The error in date of awarding vacation caused 139 occasions where 23 employees were granted vacation time which resulted in a negative balance of vacation. In addition, people who left employment would have the ability to take vacation which they had not yet earned. During the audit period there was an occurrence where an employee left employment and was paid for vacation that they had not earned yet. The total amount that the county overpaid the effected employee was \$1,865.60.

Worked Holiday Comp Time Earned

The contract indicates that an employee that works on a holiday is to receive time and a half for all hours worked. The employee has the ability to be paid or earn comp time. During the audit period of 2015 through 2020, it was determined that there were 247 instances where a deputy worked a 10-hour day but were only credited with 12 hours of comp time. The employee should have received 15 hours of comp time. This creates a liability from the county to the employees.

The impact of this error is that the county should have paid \$20,352 more to the employees (including the impact of Social Security, Medicare and SLEP). In addition, this would have the potential to incorrectly represent the compensation for pension purposes

Worked Holiday – Paid through payroll

When an employee worked on a holiday, they were to be paid time and a half on top of standard pay. During the audit period, there were 184 instances where deputies worked a holiday and were only paid for 8 hours and they should have been paid for 10. This results in an underpayment of 2 hours per paid worked holiday which should have been paid at time and a half. The resulting impact of this error is that the county underpaid the deputies \$14,106. After Social Security, Medicare and SLEP the total value of this error is \$16,878.

Sick Time incorrectly allocated

Sick time is to be awarded at the rate of 1 day per month of service. For the years 2015 through 2019 the sick time was granted for the entire year on January 1st. This error appears to have been corrected for 2020. There were 84 instances where 7 employees were granted sick time that resulted in a deficit balance. In addition to the ability to receive paid sick time in violation of the contract, it was also observed that when an employee left employment their sick days at the date of separation from service were included in the amount of sick days turned in to IMRF or SLEP. This could create an inaccurate record of compensation for pension purposes. There were 3 instances where 3 employees were awarded 96 hours more than they should have had when they separated from service.

2016 Overtime

During 2016 it was observed that 41% of all deputy overtime for the entire year was turned in on a singular payroll date. This date was the first date of the new "step" rates for the new contract rates of pay. This appears to be statistically unlikely and there were no records available to support the hours worked. As an example, one employee had 19 hours of overtime for the September 9th payroll and only had 21.5 hours for the entire year.

Overtime not paid at Time and a half

It was noted that there were 123 instances where employees were paid for over 80 hours on a paycheck and it was paid at straight time. This error was more prevalent during the years 2015 through 2017 than the period of 2018 through 2020. The net effect of this error was to

underpay the employees by \$9,792.65 of gross pay. There were insufficient records to support how many hours were worked by staff.

Full time employees treated as part time

It was noted that there were numerous instances where an employee worked full time hours but was paid at a rate that was not aligned with the contract for any of the positions. When a person does not receive the benefits outlined in the contract (in addition to Insurance etc) they have not been compensated for the same time that other full-time employees have received. This would typically deny them approximately 320 hours of paid time that other employees receive (Vacation, Sick time and personal days). The net effect of this error is estimated to be \$42,240 that has been underpaid to employees.

Employee not enrolled in IMRF

When an employee has worked or is expected to work 1,000 hours or more in a year they are to be enrolled in IMRF. Several instances of employees who should have been enrolled in IMRF were not enrolled. There were 6 instances where employees should have had IMRF withheld from their pay as well as the county contributing their portion. The estimated impact is that \$5,497 should have been withheld from the employee pay and \$13,905 should have been the county rate (assuming a 12% estimated county contribution).

Miscellaneous

- An employee was paid for 3 hours of holiday pay on a date when there was no holiday during the pay period
- An employee had a non-worked holiday that he was paid for that also earned comp time of 8 hours
- Two employees take an unpaid day for all holidays and then use the holiday at a date of their discretion
- A deputy took a 10-hour personal day and also earned 8 hours comp time on the same date.
- An employee was paid 6 hours overtime when the attendance reports do not reflect any overtime worked
- Comp time earned was commonly at an amount that is inconsistent with a time and a half allowance.
- An employee was paid out 168 hours of comp time that didn't show up on the attendance reports.

- An employee had "sold back" 16 vacation hours and 205 comp time hours that never show up on a payroll report.
- During 2018 an employee's time slip indicated overtime that was worked and comp time was granted. It was granted at a 1:1 basis when it should have been 1:1.5 basis. The resulting shortage to the employee was 36 hours of pay and would have been \$830.88 due to the employee.
- During 2018 an employee requested a vacation day that was denied by management. The employee was charged a vacation day on their attendance record.
- Two employees would commonly take a holiday as an unpaid day off and credit comp time to take an additional day off at a later time. This is not identified as a possibility by the contract and results in fewer hours being worked than anticipated.
- Comp time was earned at rates that don't correspond with a natural number of hours. Comp time is to be earned at a rate of time and a half but would commonly be turned in for amounts that don't correspond to a logical calculation. For example, 5 hours comp time would be 3.33 hours or 8 hours would be 5.33 hours.