



COUNCIL OF THE DISTRICT OF COLUMBIA
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WASHINGTON, D.C. 20004

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April 27, 2010

Dr. Natwar M. Gandhi
Chief Financial Officer
1350 Pennsylvania Ave., NW Suite 209
Washington, D.C. 20004

RE: FEMS Spending Pressures

Dear Dr. Gandhi:

Thank you for your March 22nd response to my March 4th letter requesting immediate steps to enforce the District's anti-deficiency law regarding Chief Dennis Rubin and the Fire and Emergency Medical Services Department (FEMS). I urge your office to do more.

I am interested in how the OCFO has handled this situation. Accordingly, please provide a copy of the referral letter you referenced to the Board of Review of Anti-Deficiency Violations. Additionally, please provide copies of all anti-deficiency notices that you have sent to FEMS in FY 2009 and FY 2010. If the "first quarterly report of possible violations to the agency fiscal officers," referred to in your letter, is something different, please provide a copy of that, too.

There is no question that the spending pressures in FEMS are a result of agency management decisions, which is why the agency chief must be held responsible.

- Over \$1.3 million in unbudgeted spending is due to the Chief's decision to upgrade Sergeants' pay, promote captains, and provide EMS supervisor pay parity. Although each of these actions are laudable, they were unfunded and resulted in freezing firefighter vacancies – thus creating overtime pressure.
- As of mid-February, the Chief had permitted over \$340,000 in overtime to be paid to salaried managers. Managers do not get overtime in most organizations. When asked at a public hearing whether Assistant Chiefs receive overtime, Chief Rubin said "No," because he didn't know. They do.
- When the Chief was asked at the hearing if an employee may take sick leave and overtime pay in the same pay period, he said he did not know. The fact is, they do. A CapStat analysis found that "109 employees were the biggest users (top 25%) of both sick leave and overtime. These 4.9% of employees account for 12% of overtime and 12% of sick leave. ...If just this group reduced their sick leave to the average, they would eliminate 12,000 hours of sick leave, which would in turn eliminate 12,000 hours of overtime (about 3% of total overtime)." A simpler approach would be for the Chief to prohibit overtime for employees utilizing sick-leave during the same pay period.

- Further evidence of unchecked overtime abuse is found by comparing the top 25 overtime earners in each fiscal year 2008 - 2010 (as of 3/1/10).
 - ▶ Deputy Fire Chief Christopher W. Jordan had a salary of \$116,360 and earned \$38,634 overtime in FY 2009. He's among the top 25 overtime earners again this year.
 - ▶ Stephen J. Turner had a salary of \$66,986 and earned \$106,993 overtime in FY 2009. He was the number one overtime earner last year, was the number two overtime earner in FY 2008 and is the number one overtime earner so far this year.
 - ▶ Ricardo A. Bell had a salary of \$63,796 and earned \$101,782 overtime in FY 2009. He's been on the top 25 list each of these three fiscal years.
 - ▶ Indeed, nine employees on the list of this year's top 25 overtime earners have been on the top 25 list each of these three fiscal years.
- There are 103 uniformed employees on a 40 hours/week administrative schedule. These individuals are not staffing firehouses, for which the Chief insists overtime is essential in order to fill operational "seats" to ensure fire/EMS service. Overtime for this category is not being managed well, either: by March 1st this group had accrued over \$300,000 in overtime.
- The February snowstorms appear to have been an orgy of opportunity for FEMS employees to obtain overtime. Chief Rubin has yet to explain to the Council why, given the department's unique 24-hour staffing of 34 firehouses, it was necessary to expend almost \$1.1 million in overtime for one pay period (an annualized rate of \$28.3 million) – over three times greater than the average per pay period this fiscal year. Looking only at Saturday, February 6, the date of the first snow storm which ended late afternoon, we see that Fire Arson Investigator Keith Byrd earned 24 hours overtime that day, Supervisory Info Tech Specialist Caroline Molivadas earned 20 hours overtime, Records/Inventory Mgmt Assistant Sandra Smith earned 19 hours overtime, Inventory Mgt. Specialist Wayne A. Bucci earned 24 hours overtime, George A. Maxfield and Anthony W. West, who are Heavy Mobile Equipment Mechanics, each earned 24 hours overtime. I cite these examples because paying this much overtime *for one day* for these positions seems unnecessary and excessive.
- FEMS needs 1,971 uniformed employees in order to fill 349 "seats" per shift, utilizing a staffing factor of 1.41 employees per seat per shift. The staffing factor accommodates the fact that uniformed employees may be unavailable because of leave or other assignments. In fact, the agency has 1,958 uniformed employees on board (excluding recruits), but only 1,769 are assigned to the operations division, and of these almost 100 are not available for duty because of injuries, sick leave, administrative leave, or disciplinary leave. Additionally, approximately 60 are unavailable because the Chief has directed them to the academy for remedial training to take the National Registry EMT exam which they have previously flunked multiple times. Another 51 are detailed or assigned to other work, leaving 1,570 to fill seats.¹ These are management choices that have reduced the staffing available to fill the 349 seats per shift – resulting in overtime.

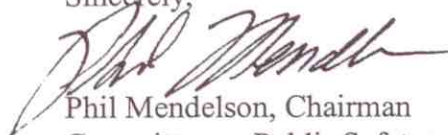
¹This data is taken from either Chief Rubin's December 21, 2009 testimony before the Committee or from attachments to Dr. Gandhi's March 22, 2010 letter. The precise numbers vary over time, but the effect – a significant reduction in uniformed employees available for firefighting/EMS operations – remains the same.

- There are numerous management strategies that could reduce overtime, which is the largest spending pressure in FEMS:
 - ▶ Prohibit managers (battalion chief and above) from receiving overtime;
 - ▶ Prohibit employees from receiving overtime in the same period as sick leave;
 - ▶ Cancel further overtime this fiscal year for employees on the administrative schedule;
 - ▶ Eliminate “premium” pay (i.e., time-and-one-half) by not permitting overtime for anyone projected to reach over 212 hours work during two consecutive pay periods;
 - ▶ Reduce the number of uniformed employees unavailable for work due to leave, injuries, details, reassignments, and remedial NREMT training;
 - ▶ Adopt alternative methods for delivering in-service training (other than remedial NREMT) that does not require taking uniformed employees out of operations;
 - ▶ Reduce sick leave; sick leave at FEMS is 46% higher than average for the District government;
 - ▶ Reduce the number of transport units in service from midnight to 7 a.m. on week nights, when relative demand is low.

In short, the Chief of the Fire and EMS Department has made decisions that violate anti-deficiency, has failed to manage overtime and allowed its abuse or misuse, and has chosen not to adopt strategies that would reduce costs. If an agency director cannot be sanctioned in a case like this, then the law is toothless. For these reasons it is important that the OCFO and the Board of Review of Anti-Deficiency Violations act aggressively to enforce the law and instill financial discipline in the Fire and EMS Department.

Please forward this letter to the Board of Review. If you believe it would be helpful, I would be available to attend a meeting of the Board.

Sincerely,



Phil Mendelson, Chairman

Committee on Public Safety and the Judiciary