OFFICE OF THE INSPECTOR GENERAL
COMMONWEALTH OF MASSACHUSETTS

JEFFREY S. SHAPIRO
INSPECTOR GENERAL

Division of State Police Oversight: 2022 Annual Report

MARCH 1, 2023

ONE ASHBURTON PLACE, ROOM 1311
BOSTON, MA 02108 | (617) 727 - 9140 | WWW.MASS.GOV/IG

The Commonwealth of Massachusetts
Office of the Inspector General

JEFFREY S. SHAPIRO
INSPECTOR GENERAL

JOHN W. McCORMACK
STATE OFFICE BUILDING
ONE ASHBURTON PLACE
ROOM 1311
BOSTON, MA 02108
TEL: (617) 727-9140
WWW.MASS.GOV/IG

March 1, 2023

Via Electronic Mail

Interim Colonel John E. Mawn, Jr.
Massachusetts State Police
470 Worcester Road
Framingham, MA 01702
John.Mawn@pol.state.ma.us

Secretary Terrence Reidy
Executive Office of Public Safety and Security
One Ashburton Place, Suite 2133
Boston, MA 02108
Terrence.Reidy@mass.gov

The Hon. Walter F. Timilty, Chair
Joint Committee on Public Safety and Homeland Security
State House, Room 213-B
24 Beacon Street
Boston, MA 02133
Walter.Timilty@masenate.gov

The Hon. Carlos González, Chair
Joint Committee on Public Safety and Homeland Security
State House, Room 167
24 Beacon Street
Boston, MA 02133
Carlos.Gonzalez@mahouse.gov

Re: Office of the Inspector General, Division of State Police Oversight: 2022 Annual Report

Dear Colonel Mawn, Secretary Reidy, Chairman Timilty and Chairman González:

Pursuant to Chapter 12A of the Massachusetts General Laws, enclosed please find the 2022 Annual Report of the Inspector General's Division of State Police Oversight (DSPO), which issued today.

This report, entitled *Office of the Inspector General, Division of State Police Oversight: 2022 Annual Report,* is the fifth annual report issued by the DSPO since its inception in 2018.

With its broad statutory authority, the DSPO focuses its work each year on important and impactful reviews and analyses that are designed to provide a level of oversight and focused, continual improvement recommendations for the Colonel, the command staff, the Secretary of Public Safety and Security, legislative leaders, other interested stakeholders and the public at large.

I am proud of this report and the DSPO team, which is led by David Andrews and includes Peter Bailey, Courtney Cohan and Sumedha Prasad.

Please do not hesitate to contact me if you have any questions about this report, the DSPO or this Office. I hope that you, too, find that this report provides meaningful and important insight.

Sincerely,

Jeffrey S. Shapiro
Inspector General

cc (via email):

The Hon. Michael J. Rodrigues, Chair, Senate Committee on Ways and Means
The Hon. Aaron M. Michlewitz, Chair, House Committee on Ways and Means
The Hon. Marc R. Pacheco, Chair, Senate Post Audit and Oversight
The Hon. John J. Mahoney, Chair, House Post Audit and Oversight
The Hon. Bruce E. Tarr, Senate Minority Leader
The Hon. Bradley H. Jones, Jr., House Minority Leader
Mr. Michael D. Hurley, Senate Clerk
Mr. Steven T. James, House Clerk

TABLE OF CONTENTS

Executive Summary 1

Background 3

I. The Office of the Inspector General 3

II. The Division of State Police Oversight 3

III. The Massachusetts State Police 4

Audits, Investigations and Reviews 5

I. Review of Troopers' Use of Leave Time to Work Overtime Shifts 5

II. Civil Recoveries from Former Troopers 8

Other Activities 9

I. The MSP's Efforts to Achieve Certification or Accreditation 9

Acknowledgment 11

EXECUTIVE SUMMARY

The Massachusetts Legislature created the Division of State Police Oversight (DSPO) in 2018 as a unit within the Office of the Inspector General for the Commonwealth of Massachusetts (Office). Pursuant to Section 72 of Chapter 22C of the Massachusetts General Laws, the DSPO is responsible for monitoring the quality, efficiency and integrity of the Massachusetts State Police (MSP).

The scope of the DSPO's oversight includes, but is not limited to (1) monitoring the quality, efficiency and integrity of the MSP's operations, organizational structure and management functions; (2) preventing, detecting and correcting fraud, waste and abuse in the MSP's expenditure of public funds; and (3) monitoring policy changes instituted as a result of the MSP's certification or accreditation by a state or national police accrediting agency pursuant to Section 73 of Chapter 22C of the Massachusetts General Laws. During calendar year 2022, the DSPO conducted several reviews and made recommendations to improve the MSP's operational efficiency and integrity.

Review of Troopers' Use of Leave Time to Work Overtime Shifts

In 2022, the DSPO reviewed troopers' use of vacation or personal leave to work optional highway overtime assignments, as well as the MSP's policies surrounding this practice. These overtime shifts often overlap with troopers' regularly scheduled patrols. For example, an overtime shift may start at 3:00 p.m., while a trooper's regular shift ends at 3:30 p.m.

The MSP requires troopers to use vacation or personal time to account for this overlap. The DSPO found that this practice helps to ensure that troopers are not paid for two shifts – a regular and an overtime shift – at the same time. While this is a sound practice, the MSP does not have a written policy addressing overtime shifts that overlap with troopers' regularly scheduled shifts.

The DSPO also found that the troopers' use of leave time to work optional overtime shifts could increase other overtime costs. When troopers depart early from or arrive late to their regularly scheduled shifts to work optional overtime shifts, they may cause patrols to fall below the MSP's minimum staffing levels. This would then require the MSP to call in other troopers to work mandatory overtime to maintain minimum staffing levels.

The DSPO recommended that the MSP develop a written policy regarding overtime shifts that overlap with troopers' regularly scheduled shifts. The policy should require both that troopers use vacation or personal time if they leave their scheduled shift early or arrive late in order to work an overtime shift. The policy also should require MSP supervisors to consider minimum staffing levels before approving a trooper's request to use leave time to work an optional overtime assignment.

Civil Recoveries from Former Troopers

In 2022, the DSPO continued to provide investigative, analytical and administrative support to the Office's efforts to recover unearned pay from former troopers who worked in the now-abolished Troop E. In 2022, the Office recovered $13,117 from three troopers for overtime that it determined the troopers

had not worked. Through 2022, the Office recovered more than $249,727 from 14 former troopers for overtime they allegedly did not work.

The MSP's Efforts to Achieve Certification or Accreditation

The Legislature charged the DSPO with monitoring policy changes instituted as part of the MSP's efforts to receive certification or accreditation from a state or national police accrediting agency. The MSP achieved certification through the Massachusetts Police Accreditation Commission (MPAC) on February 28, 2022, and achieved full accreditation through MPAC on December 21, 2022.

BACKGROUND

I. The Office of the Inspector General

The Office of the Inspector General for the Commonwealth of Massachusetts (Office) is an independent state agency charged with preventing and detecting fraud, waste and abuse in the use of public funds and public property. The Legislature created the Office in 1980 at the recommendation of the Special Commission on State and County Buildings, a legislative commission that spent two years probing corruption in the construction of public buildings in Massachusetts. It was the first state-level inspector general's office in the country.

In keeping with its broad statutory mandate, among other responsibilities, the Office also reviews programs and practices in state and local agencies to identify system-wide vulnerabilities and opportunities for improvement; investigates allegations of fraud, waste and abuse at all levels of government; and assists the public and private sectors to help prevent fraud, waste and abuse in government spending. In addition, the Office provides guidance to public employees on issues that arise under the Uniform Procurement Act, M.G.L. c. 30B, which governs the purchase and disposition of supplies, services, equipment and real property by municipalities and other public entities. The Office also educates public and private employees through its Massachusetts Certified Public Purchasing Official (MCPPO) training program.

II. The Division of State Police Oversight

Established within the Office in July 2018, the Division of State Police Oversight (DSPO) is responsible for monitoring the quality, efficiency and integrity of the Massachusetts State Police's (MSP) operations, organizational structure and management functions. *See* M.G.L. c. 22C, § 72. Additionally, the Legislature charged the DSPO with monitoring policy changes instituted as part of the MSP's efforts to receive certification or accreditation from a state or national police accrediting agency. The DSPO also seeks to prevent, detect and correct fraud, waste and abuse in the expenditure of public funds at all levels of the MSP, including expenditures by the MSP for paid details and overtime. *See* M.G.L. c. 22C, § 72(c).

The Legislature requires the Inspector General to appoint a director of the DSPO for a fixed term of four years. *See* M.G.L. c. 22C, § 72(a). Inspector General Jeffrey S. Shapiro appointed attorney David Andrews as the director of the DSPO on December 3, 2022. As of the date of this report, the DSPO includes Director Andrews and the following staff members: Peter Bailey, Courtney Cohan and Sumedha Prasad. In fiscal year 2022, the DSPO had a budget of $437,250 and had authority to review and monitor activities within the MSP, which had a budget of over $445,110,606 and approximately 3,000 employees during the same fiscal year.

III. The Massachusetts State Police

Founded in 1865, the MSP is the oldest statewide law enforcement agency in the nation. It provides full-service policing, with more than 2,000 sworn officers, as well as several hundred civilian staff. Its jurisdiction spans across the state's 351 cities and towns and extends 12 nautical miles off the Commonwealth's coastline. The MSP serves a population of approximately 6.9 million people and is responsible for criminal law enforcement and traffic safety across the Commonwealth. In addition, the MSP provides forensic services, protects Logan International Airport and other Massport properties, and provides basic policing services to a number of small towns within the Commonwealth.

The MSP is led by the Superintendent, who holds the rank of Colonel and operates from the Office of the Superintendent. The MSP is organized into five divisions that provide a variety of public safety and administrative services:

- The **Division of Field Services** oversees highway safety, assists municipal law enforcement agencies by responding to public safety emergencies or incidents, and provides other patrol resources and special operations.
- The **Division of Investigative Services** conducts criminal investigations, including homicide investigations, in cooperation with the Commonwealth's district attorney's offices and provides forensic services through its state crime laboratory system.
- The **Division of Homeland Security and Preparedness** is responsible for the Commonwealth's readiness for and response to a variety of large-scale criminal threats, including terrorist activity.
- The **Division of Standards and Training** operates the State Police Academy, oversees training and education across all MSP divisions, and conducts internal investigations and inspections.
- The **Division of Administrative Services** provides internal administrative support to the MSP.

AUDITS, INVESTIGATIONS AND REVIEWS

In 2022, the DSPO conducted a variety of investigations, reviews and audits related to the efficiency and integrity of the MSP's operations, organizational structure and management functions. Below is a summary of some of the DSPO's work over the last year.

I. Review of Troopers' Use of Leave Time to Work Overtime Shifts

The DSPO reviewed troopers' use of vacation and personal leave time to work optional overtime assignments as well as the MSP's policies and procedures surrounding this practice.

All troopers can receive overtime pay by choosing to work special highway and other overtime shifts in the Division of Field Services (DFS). These opportunities may occur at the same time as a trooper's regularly scheduled shift or may partially overlap with it. For example, an overtime shift may start at 3:00 p.m., while a trooper's regular shift ends at 3:30 p.m.

The MSP recognizes that it is impossible for troopers to work two shifts, or portions of two shifts, simultaneously. Consequently, the MSP requires troopers to use vacation or personal time to account for any shift overlap, thus ensuring that troopers are not paid for regular and overtime shifts at the same time.[1] The DSPO found that this sound practice helps to ensure that troopers are only paid for the hours they actually work.

However, the DSPO also found that the MSP does not have a written policy addressing overtime shifts that overlap with troopers' regularly scheduled shifts. In addition, the DSPO found that the practice of using leave time to work an optional overtime shift could unnecessarily increase the MSP's overtime costs by creating trooper shortages on routine patrols in individual stations within each troop.

The DSPO recommended that the MSP strengthen its policies and procedures regarding overtime shifts that overlap with troopers' regularly scheduled shifts. The MSP should develop a written policy that requires troopers to use leave time when optional overtime shifts overlap with their regularly scheduled shifts. Further, the MSP should require supervisors to consider whether a trooper's use of leave time will adversely impact minimum staffing levels at individual stations before approving the trooper's request to use leave time in this manner. Such a policy would increase accountability and strengthen internal controls.

The MSP recently provided the DSPO with draft changes to current MSP policies to address the DSPO's recommendations. The DSPO will continue to work with the MSP to promote accountability and strong internal controls in all of its policies and procedures.

[1] Overtime shifts may also begin before a trooper's regular shift. Therefore, troopers are also required to use vacation or personal time to cover the beginning of a regular shift.

A. The Division of Field Services and Minimum Staffing Requirements

The DFS is comprised of six troops (A, B, C, D, F and H) that protect and patrol the Commonwealth's highways. Each troop has several individual stations. For example, Troop A is responsible for the northeastern region of the state, which extends from the New Hampshire border to Revere. Within this region Troop A has six stations, each of which is responsible for patrolling a certain geographic area of the region.

Troopers assigned to each station primarily perform highway patrol functions. During their daily work shifts, troopers patrol a designated section of a state road or highway and respond to calls for service and assistance, including calls related to motor vehicle accidents and disabled vehicles. Troopers are also expected to enforce all Massachusetts driving laws.

The MSP requires that each station within each troop maintain a certain number of troopers on each shift to conduct routine patrols. These minimum staffing levels ensure adequate patrol coverage and operational safety. For example, one station in Troop A may require that three troopers patrol that station's particular geographical area per shift while another Troop A station may only require two troopers per shift to maintain optimum operations and safety. When staffing falls below a station's minimum staffing level, DFS requires troopers to work additional overtime shifts to bring staffing to the required level.

B. Categories of Overtime within the MSP

Overtime within the MSP's DFS generally falls into three categories: regular overtime, court overtime and special enforcement overtime. Most overtime is paid at a rate of 1.5 times the trooper's hourly rate.

Troopers earn regular overtime when DFS requires them to work overtime to maintain minimum staffing levels; the MSP refers to this as "backfill overtime." The MSP also pays troopers at a regular overtime rate when they are required to work beyond the end of their scheduled shift to complete an arrest, respond to a motor vehicle accident, conduct a search or perform other law enforcement functions. The MSP's main operating budget funds all regular overtime payments.

Troopers earn court overtime when they are not scheduled for a regular shift but are required to appear in court for a specific case. The MSP's main operating budget also funds court overtime payments.

Troopers receive special enforcement overtime for a variety of reasons including, but not limited to, working optional highway patrols created for a unique enforcement initiative, like targeting speeding, enforcing seat belt laws or preventing drunk driving. The National Highway Traffic Safety Administration funds many special enforcement highway patrols that support a specific law enforcement initiative.

C. The DSPO's Review and Findings

The DSPO reviewed payroll data for 2,890 special highway overtime shifts worked by 528 troopers in 2019. The troopers were assigned to Troops A, B, C, D and H.[2] The overtime shifts included unique enforcement initiatives aimed at improving child passenger safety and seat belt enforcement and preventing speeding and drunk driving. In 8% of these shifts, troopers used some vacation or personal leave to work overtime.

The DSPO found that allowing troopers to use personal or vacation leave to work overtime can unnecessarily increase overtime costs. That is, a trooper who uses vacation or personal time to leave their regular shift early, or arrive late, to work an optional overtime shift could cause the patrols on that shift to fall below minimum staffing levels. This would then require the MSP to backfill the patrol with an overtime shift and call in another trooper to work mandatory overtime to maintain minimum staffing levels.

The DSPO found that it is routine practice for the MSP to prohibit the use of leave time to work an optional overtime shift if doing so would result in backfill overtime. Nevertheless, the MSP does not have a written policy outlining this prohibition, nor does it have a specific policy addressing overtime shifts that overlap with regular shifts. The MSP would benefit from such a specific, written policy. At any agency or department, when a written policy does not exist and leadership turnover occurs, there is no guarantee that past practice will continue to be the basis of future conduct. Additionally, with the size of the MSP force and its numerous troops and stations, it is critical to have procedures such as this one memorialized in a written policy for consistent application across the Commonwealth.

D. The DSPO's Recommendations

To strengthen internal controls and ensure that the use of leave does not impair operations or increase backfill overtime costs, the DSPO recommended that the MSP create a written policy that addresses when and how a trooper may work an optional overtime shift that overlaps with their regularly scheduled shift. This policy should mandate troopers to use vacation or personal time to leave a regularly scheduled shift to work an optional overtime shift. It should further require supervisors to consider minimum staffing levels before approving a trooper's request to use leave time for this purpose.

The DSPO also recommended that the MSP implement appropriate training to communicate the policy to troopers and supervisors in a thorough and consistent manner.

The MSP has since drafted changes to its policies to address the DSPO's recommendations. The DSPO will continue to work with the MSP with regard to these policy changes and to promote accountability and strong internal controls in all of MSP's policies and procedures.

[2] Troop F is responsible for the policing and security of all Massport properties, including Logan International Airport. Because it does not perform a highway patrol function, it was not subject to the DSPO's review.

II. Civil Recoveries from Former Troopers

During the past year, the DSPO continued to work collaboratively with the Office's Civil Recovery Unit (CRU) to recover unearned compensation from former troopers who worked in the now-abolished Troop E.[3] Troop E was responsible for patrolling the 138-mile length of the Massachusetts Turnpike and the vehicular tunnels in Boston. The MSP abolished Troop E after conducting an internal investigation in 2018 and finding that several troopers claimed to have worked overtime shifts they had not worked, either in whole or in part. As a result, the MSP referred its investigation to the United States Attorney's Office and the Massachusetts Attorney General's Office. Federal prosecutors brought criminal charges against eight former troopers and state prosecutors against two. One trooper faced both state and federal charges.

However, several troopers who the MSP found had falsely claimed to have worked overtime shifts did not face criminal charges. To hold these troopers accountable, the DSPO has worked in partnership with the CRU to recover payments these troopers received for overtime they did not work. For example, the DSPO engaged in a detailed analysis and review of the MSP's records, data and findings and provided investigative support to the CRU.

As a result of the collaborative efforts of the DSPO and the CRU, in 2022 the Office recovered $13,117 from three troopers. Through 2022, the Office recovered more than $249,727 from 14 former troopers for overtime they allegedly did not work.

[3] The CRU investigates and pursues civil actions to recover public funds lost to fraud or other wrongful conduct.

OTHER ACTIVITIES

I. The MSP's Efforts to Achieve Certification or Accreditation

As part of its statutory mandate, the DSPO is charged with monitoring the MSP's efforts to achieve certification or accreditation by a state or national law enforcement accrediting agency. M.G.L. c. 22C, § 73. The DSPO is also required to monitor policy changes the MSP institutes as a result of these efforts.

The certification or accreditation process for any police organization, regardless of size, generally consists of two major components: (1) establishing administrative and operational standards for the police organization; and (2) assessing the police organization to ensure it meets these standards. This generally entails a top-to-bottom internal review of the organization and, when necessary, revision of the organization's policies and procedures, followed by an external peer review by the certifying or accrediting body.

The Massachusetts Police Accreditation Commission (MPAC) is the sole arbiter of state certification and accreditation of police agencies within the Commonwealth.[4] MPAC's operational and administrative standards reflect national best practices in police management, administration, operations and support services. MPAC offers two professional credentialing programs: certification and accreditation. Accreditation is the higher of the two program awards; certification is a significant milestone toward accreditation.[5]

The MSP began the certification process through MPAC in early 2019. The DSPO found that the MSP achieved certification through MPAC on February 28, 2022. By attaining certification, the MSP is in functional compliance with the required MPAC administrative and operational standards of a police organization. After February 2022, the MSP continued to work with MPAC to demonstrate functional compliance with all law enforcement standards and achieve final accreditation. The DSPO found that on December 21, 2022, the MSP achieved full accreditation through MPAC.

Both the certification and accreditation awards are valid for three years. MPAC will conduct a midpoint assessment of MSP approximately 18 months after the initial achievement of accreditation to ensure ongoing compliance with the necessary standards for certification and accreditation. The DSPO

[4] MPAC was established in October 1996 through the combined efforts of the Massachusetts Chiefs of Police Association, the Massachusetts Police Accreditation Coalition and the Executive Office of Public Safety and Security. Pursuant to Executive Order 392, MPAC was initially created as a state agency within the Executive Office of Public Safety and Security, mandated to oversee accreditation for police organizations throughout the Commonwealth. In February 2004, MPAC transitioned from a state agency to a private, nonprofit organization.

[5] To earn MPAC certification, a police agency must demonstrate compliance with 159 mandatory standards. To earn MPAC accreditation, a police agency must demonstrate compliance with 257 mandatory standards as well as certain optional standards. MPAC requires a police agency to achieve certification before it will assess the agency for accreditation. *The Standards*, THE MASSACHUSETTS POLICE ACCREDITATION COMMISSION, https://www.masspoliceaccred.net/standards (last visited Feb. 17, 2023).

also found that the MSP has established a policy review committee to review all MSP policies, rules and regulations each year to maintain compliance with all certification and accreditation standards.

ACKNOWLEDGMENT

The Office acknowledges and appreciates the MSP's cooperation and collaboration over the past year, as the DSPO sought to improve the quality, integrity and efficiency of the MSP's operational and management functions and to prevent and detect fraud, waste and abuse of public funds. Former Colonel Mason, Colonel Mawn, their leadership teams and administrative staff were accessible and provided the DSPO with documents, information and responses to questions in a timely manner. While the MSP and the Office have significantly different statutory roles and missions, the agencies have developed a professional working relationship since the DSPO's creation five years ago. The Office hopes that this collaborative working relationship will continue to have a positive impact on the MSP as it moves forward.