

Alleging state troopers are being cheated out of overtime pay, labor union sues

By **Matt Stout** Globe Staff, Updated March 23, 2021, 11:29 a.m.



JOHN TLUMACKI/GLOBE STAFF

The union representing Massachusetts state troopers is accusing the State Police of breaking state and federal labor law by intentionally miscalculating what qualifies as the officers' regular pay and, it argues, costing rank-and-file members millions a year in overtime pay.

The State Police Association of Massachusetts, the powerful 1,900-member union, is seeking at least \$18 million in back pay and damages in a lawsuit filed Friday in Suffolk

Superior Court

The suit, which also names Colonel Christopher Mason as a defendant, could have wide legal and fiscal ramifications for a department that already spends tens of millions of dollars on overtime each year, and whose spending has come under strict scrutiny since a [wide-ranging overtime fraud scandal](#) exploded in 2018.

The police union, known as SPAM, is accusing State Police officials of failing to include various stipends that troopers and sergeants already receive when they calculate their “regular rate” of compensation, their pay excluding certain incentives.

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The stipends are mandatory, SPAM argued, and can range from an annual \$750 clothing allowance to a \$40-per-workday commuting stipend for certain troopers. As recently as January, the State Police informed employees bound by the department’s collective bargaining agreement that they all would receive an annual \$700 “hazardous duty bonus” — evidence, the union said, that despite being labeled a bonus, it’s not discretionary.

SPAM argued that state and federal laws require that the stipends be included, and by not doing so, it deflates what its members should receive in overtime pay, which is based

not doing so, it denotes what its members should receive in overtime pay, which is based on their regular pay rate. The union “conservatively estimates” it has cost the 1,900 troopers and sergeants it represents up to \$2 million a year, according to the complaint. The union is seeking three years of back pay for its members. (The state’s statute of limitations for most wage violations is three years.) Should it prevail, the labor group also is seeking triple damages under state law, which could push the sum to \$18 million, not including attorney fees and other compensation.

“This can be a very expensive set of damages,” said John M. Becker, an attorney with the firm Sandulli Grace, which has represented the Boston Police Patrolmen’s Association and the Massachusetts Coalition of Police but is not involved in SPAM’s lawsuit.

“The actual calculation of the regular rate is a little messy, and it’s complicated,” Becker said. But, he added, it’s incumbent on public and private employers to be aware of requirements under the federal Fair Labor Standards Act. “You can’t contract for a lower overtime rate than the federal law requires.”

Union officials on Monday declined to discuss the complaint. David Procopio, a spokesman for the State Police, also declined to comment, saying the department would file its response in court “at the appropriate time” and Attorney General Maura Healey’s office “will be handling the matter” for the department.

A Healey spokeswoman said that her office had received the request that it represent the State Police and was reviewing it.

SPAM in January filed a complaint on this matter with Healey’s Fair Labor Division, asking it to investigate. Healey’s office responded with a letter two weeks later, saying the division would not pursue an investigation but authorized the union to pursue a private civil lawsuit, according to copies provided by Healey’s office in response to a Globe request.

Under state law, workers must first file a complaint with Healey’s office for most violations before they sue in court.

The union argued it had raised the stipends issue a year before it filed its complaint with Healey, writing that it sent department officials a letter in January 2020 asking them to “correct the underpayment,” and that the two sides have met without a resolution.

The decision to “continue to exclude stipends from the calculation of the regular rate of its employees constitutes intentional and willful conduct,” the union wrote in its complaint, noting that the stipends “are at the heart of the Association’s claims.”

The union also argues that under the calculations the department uses, former troopers are “underreporting” their total pay to Massachusetts retirement officials, and in turn are receiving smaller pensions than what they are entitled to get, according to the suit.

The State Police have consistently doled out among the highest amounts of overtime pay of any Massachusetts state agency, spending nearly \$56.6 million in 2020 and nearly [\\$58 million the year](#) before.

In 2019 alone, some 325 troopers took home \$200,000 each or more in total pay, representing about 15 percent of the department’s 2,200-member force. The department that year also had the highest average pay per employee of any state agency by a wide margin: \$126,929.

The department has been roiled by ever-expanding allegations of fraud for the last three years, including [as recently as December](#), when two retired State Police supervisors were arrested on conspiracy, fraud, and theft charges, allegations that they had overseen a years-long scheme to steal tens of thousands of dollars in overtime pay.

Governor Charlie Baker, whose public safety secretary oversees the State Police, and the department instituted a [raft of changes](#) after the crisis exploded in 2018, including disbanding the troop at the center of the scandal.

Officials also added GPS tracking technology to the vehicle fleet, which was also the center of negotiations over a new [contract agreement](#) in early 2020 that gave troopers modest pay raises.

The execution of the changes, however, has been a mixed bag. Quarterly audits of the department's 50 highest-paid employees, an oversight measure ordered by Baker in 2018, were not effective in targeting potential overtime fraud because they put the emphasis on troopers who earned the most money — including high-salaried employees or those who retired with big payouts for unused leave — instead of on those who worked the most overtime hours, the state's inspector general reported [this month](#).

The audits have not detected any fraud, officials said.

SPAM itself also has faced scrutiny. Its former president, Dana Pullman, [was arrested in 2019](#) and accused of taking kickbacks from the union's former lobbyist and using union money for personal expenses that included meals, travel, flowers, and gifts for a girlfriend. That fall, the union voted to stop paying his legal fees.

Pullman and the union's former lobbyist, Anne M. Lynch, have pleaded not guilty.

Because of an editing error, an earlier version of this story incorrectly identified Colonel Christopher Mason as a plaintiff in the lawsuit. The Globe regrets the error.

Matt Rocheleau of the Globe staff contributed to this report.

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