

BERKELEY POLICE DEPARTMENT

DATE ISSUED: May 27, 2005

GENERAL ORDER D-15

SUBJECT: OVERTIME REGULATIONS

PURPOSE

- 1 - This order sets forth policy and procedures for employees working beyond their normal working shifts and in accordance with fiscal management.

POLICY

- 2 - It is the policy of the department that all employees shall be compensated for working beyond their regular shift and that all such shift extensions be approved via the proper chain of command.

OVERTIME GENERAL

- 3 - Overtime is defined **by the employee's union memorandum agreement (either based on a forty-hour work week or an eight-hour day)** and **is work** that can be compensated by **overtime** pay or compensatory overtime (recovery time).
- 4 - Time spent in a pay status but not actually worked (e. g. sick leave, vacation leave, recovery time, Worker's Compensation leave, holiday leave, etc.) shall be considered "time worked" in computing the basic forty hour week; however, employees shall be eligible to work in an overtime capacity while actually on such absence only in accordance with the provisions of the current Memorandum Agreement between the City of Berkeley and the employee's working group.
- 5 - When a City-recognized holiday falls within the workweek, the employee's basic workweek is reduced by eight (8) hours for each holiday.
- 6 - If an employee commences or terminates employment with the City within the workweek or is on suspension or leave of absence without pay during the workweek, the employee is not eligible for overtime benefits until hours worked exceed forty hours during that week.
- 7 - With the exception of court overtime situations, an employee's name and overtime worked shall be reflected on a time sheet.
- 8 - Unless specifically stated otherwise, all overtime is awarded at the time-and-one-half rate.
 - (a) Non-sworn personnel receive double time after 12 hours in any 24-hour period.
 - (b) Sworn personnel receive holiday overtime at the straight time rate; non-sworn personnel receive double time for Christmas and Thanksgiving. Sworn personnel on telephone stand-by as directed by the

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BERKELEY POLICE DEPARTMENT

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GENERAL ORDER D-15

court (see paragraph 33) shall be credited for compensatory overtime (recovery time) as follows:

- (1) Duty Day: One-hour minimum compensatory time and hour for hour thereafter.
 - (2) Day Off: Two-hour minimum compensatory time and hour for hour thereafter.
- (d) An explosives technician shall receive double time for that time spent (from call to completion) in dealing with explosives, whether on or off duty.
 - (e) Barricaded Subject/Hostage Negotiation Team members shall receive an additional 5% pay when involved in an active BSHNT incident, either on or off duty.
 - (f) Crowd Management Team members shall receive an additional 5% differential when involved in an active CMT incident, either on or off duty.
 - (g) Field Training Officers shall receive an additional 5% differential during any calendar year when actually working as a Field Training Officer.
 - (h) When a Police Sergeant is assigned to function as Field Training Officer Supervisor, the employee shall receive a 5% salary differential while occupying that position.
 - (i) A Police Sergeant assigned to the Homicide Detail shall receive a 4% salary differential. A Patrol Officer assigned to the Homicide Detail shall receive a 3% salary differential.
- 9 - Those holding the classification of Captain are excluded from overtime benefits.
- 10 - An employee is guaranteed at least specific minimum overtime when called to emergency overtime duty from his or her residence:
- (a) A minimum of two (2) hours overtime shall be credited if the employee is sworn.
 - (b) A minimum of three (3) hours shall be credited if the employee is non-sworn.
 - (c) If the employee's regular reporting time is less distant than the guaranteed overtime (i.e., 2 hours for sworn and 3 hours for non-sworn), the employee will receive overtime in that lesser amount.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: May 27, 2005

GENERAL ORDER D-15

COMPENSATORY OVERTIME (RECOVERY TIME)

- 11 - Compensatory overtime (recovery time) is overtime credited with time rather than pay and is normally repayable in time off (recovery).
- 12 - To obtain compensatory overtime credit the employee shall promptly submit an Extraordinary Duty Report, which has been completely filled out by the employee and approved by both the employee's supervisor and commanding officer.
- 13 - It is City and Police Department policy that employees not be permitted to accumulate excessive compensatory overtime.
 - (a) Sworn employees are allowed to accrue up to one-hundred and twenty (120) hours compensatory time
 - (b) Non-sworn employees are allowed to accrue up to ninety (90) hours compensatory time.
- 14 - Employees may be allowed compensatory time off (to recover) only when that amount of time has been previously accumulated.
- 15 - An employee who wishes to use accumulated compensatory time (recover) shall make such request on an Absence Report submitted to his/her supervisor, who shall determine if the absence would hinder the unit's operation and either approve or deny the request. Within the Patrol Division, the final decision rests with the designated Patrol Division Staffing Lieutenant.

OVERTIME/SHIFT EXTENSION

- 16 - Paid overtime is that overtime which is approved for pay. Employees of the rank of Lieutenant or below shall be entitled to receive overtime pay.
- 17 - No employee may work overtime or extend their shift without express prior approval of their supervisor. Overtime shall be defined as all time worked by an employee in excess of forty (40) hours per week. For paid overtime to be credited, an employee is required to submit an Extraordinary Duty Report immediately following the overtime assignment.
- 18 - The Extraordinary Duty Report requires approval from the employee's supervisor and commanding officer, both of whom must check the report for accuracy, insuring that the "reason" and the paid overtime budget designations are properly stated.
 - (a) Completed reports must be routed to the Division Commander for final approval.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: May 27, 2005

GENERAL ORDER D-15

(b) Completed reports must be routed to the Public Safety Accounting Office no later than 1400 hours on the Monday before payday to be included in that pay period.

19 - Paid overtime may be compensated for in units of no less than one-tenth of an hour.

HOLIDAY OVERTIME

20 - Holiday overtime is earned in lieu of taking the time off during the same week when an employee works any part of a recognized City of Berkeley holiday or has that day as a regularly scheduled day off.

21 - Holiday overtime is awarded at time for time for sworn employees; for non-sworn employees it is awarded at double time for Thanksgiving and Christmas and at time and one-half for other holidays.

22 - Holiday overtime may be either paid overtime or compensatory overtime (if the maximum accrual of compensatory overtime has not been reached).

(a) Sworn employees have the option of either pay or compensatory overtime.

(b) Non-sworn employees require Division Commander approval for compensatory overtime.

23 - In lieu of either pay or compensatory overtime, an employee may be allowed an alternative day off during the same calendar week as the holiday with Commanding Officer approval.

24 - When a holiday occurs during an employee's vacation leave, such Holiday shall not be charged as vacation leave and the employee's leave may be extended accordingly, provided that advance approval is received.

25 - Holiday overtime shall be computed by the Business Office from information provided on the Holiday time sheets.

COURT OVERTIME

26 - Court overtime is defined as that overtime worked in connection with an assigned appearance before any criminal or civil court, Police Review Commission meeting or Board of Inquiry, Department Board of Review, and any other specially approved appearance on behalf of another City department or commission.

27 - Unless otherwise approved by a Commanding Officer, all court overtime shall be paid.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: May 27, 2005

GENERAL ORDER D-15

- 28 - A sworn employee who makes an off-duty court appearance shall receive a minimum of four (4) hours overtime unless their 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.
- 29 - Non-sworn employees shall receive a minimum of three (3) hours overtime unless their scheduled duty reporting time is less than three hours after the scheduled court appearance in which case the non-sworn employee will receive overtime in the lesser amount.
- 30 - Overtime spent conferring with the prosecuting attorney will be considered as court overtime and part of the court session only if the employee's presence is required in court shortly after the conference.
- 31 - For off-duty, out-of-town court appearances, travel constitutes court overtime and is determined by the round trip time from the Public Safety Building (PSB).
- 32 - An employee required to attend two or more court sessions on the same day is eligible for overtime compensation during the period between the sessions if subpoenaed on his/her day off (limited to a maximum of two (2) hours between each session) but is not eligible for session break compensation if court appearance falls on a regular duty day.
- 33 - To receive court overtime credit an employee shall submit an Extraordinary Duty Report.
 - (a) Subpoena should be attached and case number indicated if either or both are available.
 - (b) Report is to be completed by the employee and should specify the amount of time required for "testifying/conferring" "time waiting" or if "not needed".
 - (c) The employee's supervisor shall review the report for accuracy and complete the lower boxed area, indicating the court paid overtime budget code, the Activity code and the proper project designation.

COURT OVERTIME/TELEPHONE STAND-BY

- 34 - Sworn employees who are placed on telephone stand-by for court through the Subpoena Clerk will be compensated by earned compensatory (recovery) time in accordance with the current Memorandum Agreement between the City of Berkeley and the Berkeley Police Association.
- 35 - To receive compensatory overtime credit for telephone standby an officer shall submit an Extraordinary Duty Report.

BERKELEY POLICE DEPARTMENT

DATE ISSUED: May 27, 2005

GENERAL ORDER D-15

- (a) Subpoena should be attached and case number indicated if either or both are available.
- (b) Report is to be completed by the officer and shall specify the case number and the name of the Deputy District Attorney placing him/her on telephone standby.

TRAINING OVERTIME

- 36 - Training overtime is earned when an employee is assigned to attend a class, conference or seminar during off-duty hours.
- 37 - Under section 29 C.F.R. 785.39 of The Fair Labor Standards Act (FLSA), it provides that travel time is compensable work time when it occurs during the employee's regular working hours. Under this regulation, compensable travel time includes travel time that occurs during the employee's normal working hours on nonworking days.
 - (a) "Travel time to" refers to the time it takes to get from the PSB to conference/training. "Travel time from" refers to the time it takes to get from the conference/training back to the PSB.
 - (b) When attending an approved conference/training, travel time will be compensable from the time the employee leaves the PSB to the time they arrive at their destination (i.e. hotel, class). On the return, travel time will be compensable from the time the employee leaves the conference/training to the time they arrive at the PSB or their residence.
 - (c) When attending an approved conference/training, the time given for lunch is not compensable. Participation in socials, gatherings, meetings that are not required for the completion of the conference/training are not compensable.
 - (d) For auditing purposes, when completing the "Training Time Credit Record" the time spent traveling needs to be documented separate from the "times attended." This travel time needs to be hand-written onto the Training Time Credit Record.
- 38 - Employees attending schools or classes away from the PSB will normally be credited with an eight (8) hour day even though the number of hours may vary due to the nature of the instruction.
- 39 - All training time including overtime, either paid or compensatory, shall be reported on a Training Time Credit Record and routed to Personnel and Training for review and distribution of copies.

BERKELEY POLICE DEPARTMENT

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GENERAL ORDER D-15

EMERGENCY ON CALL OVERTIME

- 40 - An employee shall be paid or given compensatory time off for being placed on emergency on-call status as follows:
- (a) An employee who is placed on emergency on-call status on their regularly scheduled day off shall be paid or be credited with compensatory time off at a one quarter (1/4) time rate (i.e., .25 multiplied by the number of hours placed on emergency on-call status).
 - (b) 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 (1/4) time rate (i.e., .25 multiplied by the number of hours placed on emergency on-call status).
 - (c) Emergency on-call overtime is defined as that time a sworn employee is notified to be available at home by phone for emergency call-up if it becomes necessary.
- 41 - Employees holding the rank of Captain shall be ineligible for overtime compensation.
- 42 - Employees may be ordered "on-call" by the Chief of Police or a Division Commander and shall remain "on-call" until relieved by competent authority.
- 43 - Employees who violate an "on-call" order shall be ineligible for overtime compensation and shall be subject to disciplinary action.

References: Appendices 4, I3
City of Berkeley Salary Resolution
City of Berkeley Position Ordinance, 3517 N. S
City of Berkeley Memoranda of Understanding and
Agreements with employee groups
General Order F-1, TR 282
Police Regulations PR 265, PR 270, PR 271, and PR 280