

General Order

Houston Police Department



ISSUE DATE:

May 23, 2018

NO.

300-36

REFERENCE: Supersedes all prior conflicting Circulars and Directives, and General Order 300-36, dated April 14, 2008

SUBJECT: EXEMPT TIME COMPENSATION AND EXEMPT TIME CREDIT

POLICY

Federal and state law and the applicable Meet and Confer Agreement recognize the department's right to manage an employee's assignment, shift, and days off for the best interest of the department and the community, and to ensure all essential police services are provided. Although *exempt officers* are considered exempt from overtime compensation for all intents and purposes under the Fair Labor Standards Act, the department shall compensate exempt officers as set forth herein with *exempt time compensation* or *exempt time credit* for hours worked in excess of the number of hours in the exempt officer's regular workday.

This General Order applies to only classified employees holding the rank of lieutenant or captain or classified pay grade VII or IX, except where specifically provided otherwise (e.g., timekeeper responsibilities).

DEFINITIONS

Exempt Officer. For the purposes of this General Order, an *exempt officer* is a classified employee who holds the rank of lieutenant or captain or classified pay grade VII or IX.

Exempt Time Compensation. Pay earned for hours worked in excess of the number of hours in the exempt officer's regular workday and in accordance with the provisions outlined in this General Order. *Exempt Time Compensation* is considered assignment pay and shall be calculated as *straight time pay*.

Exempt Time Credit. Personal leave earned and accumulated for hours worked in excess of the number of hours in the exempt officer's regular workday and in accordance with the provisions outlined in this General Order.

Flextime or Flexing. The adjustment of regular workday hours (e.g., 8- or 10-hour shift) by an exempt officer to make up for a reduced workday or an extended workday.

Straight Time Pay. As used in this General Order, *straight time pay* refers to exempt time compensation earned and paid on an hour-for-hour basis with the amount calculated on only the exempt officer's base and longevity pay.

Time Actually Worked. For the purposes of calculating exempt time compensation and exempt time credit, *time actually worked* includes time the exempt officer is actually on duty, including mealtime, as well as when the exempt officer observes designated City Council declared holidays, or when the exempt officer has taken paid leave (i.e., paid time off, death in the family, or other paid leave). Any *deferred holiday time* accrued is not counted as *time actually worked* since the officer is not actually working on the holiday for which the *deferred holiday time* is accrued.

1 ELIGIBILITY

Exempt officers shall not work in excess of the number of hours in the exempt officers' regular workday without prior authorization from the appropriate supervisor.

Work in excess of the number of hours in the exempt officer's regular workday must be justified as serving a specific department function or need.

Exempt officers shall be eligible for exempt time compensation or exempt time credit for hours worked in excess of the number of hours in the exempt officers' regular workday, including all *time actually worked* in accordance with this General Order.

When calculating exempt time compensation or exempt time credit, quarter-hour time blocks shall be used for time entered by timekeepers. If an exempt officer has worked eight minutes or more of the quarter-hour time block, then the entire 15-minute block shall be approved for exempt time compensation or exempt time credit, as applicable. When less than eight minutes in the time block are worked, credit for that time block shall not be granted.

Exempt Time Compensation

Exempt time compensation shall be earned on an hour-for-hour basis at straight time pay for exempt officers holding the rank of lieutenant or captain or classified pay grade VII or IX.

Exempt Time Credit

For exempt officers holding the rank of captain or classified pay grade IX, exempt time credit shall be earned on an hour-for-hour basis. For exempt officers holding the rank of lieutenant or classified pay grade VII, exempt time credit shall be earned at one and one-half hours for each hour actually worked.

2 EXEMPT TIME CREDIT ACCRUAL AND USAGE

Exempt time credit shall be accrued in a separate time bank, can be carried over from one benefit year to another, and shall remain in the time bank until used. The total number of hours of exempt time credit in an exempt officer's time bank shall not exceed 480 hours. Once the employee's exempt time credit bank reaches the 480-hour limit, all additional overtime worked shall be compensated with straight time pay.

Exempt time credit may be used for any type of personal leave in a manner consistent with the department's leave policy.

Exempt time credit has no cash value; therefore, it cannot be taken, used, or awarded as follows:

- a. As "drag-up" pay at retirement or separation
- b. In the event of the officer's death
- c. During the Phase Down Program

3 FLEXTIME

Exempt officers shall not be authorized to *flex* their shift for the purpose of earning exempt time compensation or exempt time credit. Supervisors, however, may approve an exempt officer to flex his shift in order to meet department needs even if it results in the exempt officer earning exempt time compensation or exempt time credit that would not have been earned had the shift not been flexed. Employees shall refer to General Order 200-26, **Workday and Workweek** for other directives regarding flextime.

4 COURT ATTENDANCE

Exempt officers shall receive exempt time compensation or exempt time credit for attending court during off-duty hours in accordance with General Order 300-25, **Court Attendance and Compensation**.

5 CALL-UPS

When, without prearrangement, off-duty exempt officers are required to report immediately to a specific location for a department action other than court attendance, exempt time compensation or exempt time credit shall be authorized from the time the exempt officer receives the notification and shall continue until the officer departs from the last location requiring department action.

The travel time allowed for exempt time compensation or exempt time credit must be realistic in association and not have an appearance of impropriety.

6 COUNCIL-APPROVED HOLIDAYS

When a City of Houston holiday occurs on an exempt officer's regular day off and the officer does not work on the holiday, the officer shall be granted *deferred holiday time* in his accrued leave bank equal to the number of hours in his regular workday.

When an exempt officer is off observing a holiday, the holiday shall have a value equal to the exempt officer's workday.

When an exempt officer works the holiday, whether it is his regular workday or regular day off, the department will decide whether the eligible exempt officer may receive exempt time compensation or exempt time credit, in addition to any compensation or *deferred holiday time* indicated above.

7 EARN AND BURN

The department prohibits the practice known as "Earn and Burn" in which some personal leave (straight time) is used (burned) in order to earn exempt time compensation or exempt time credit. Accordingly, exempt officers shall not use or be allowed to use (burn) any type of leave (straight time) and earn exempt time compensation or exempt time credit during the same shift.

8 FLOATING HOLIDAYS

The hour value of a floating holiday shall be equal to an exempt officer's normal workday, and shall be of non-accruable time. Floating holidays cannot be submitted for pay. Floating holidays must be used as whole workdays. If an exempt officer is required to work or attend court during his regular shift on a day previously approved as a floating holiday, the entire holiday will remain unused and must be rescheduled.

9 ON-DUTY TRAINING

Exempt officers shall adjust their shift to attend on-duty training when such training falls outside their regularly scheduled shift. If the on-duty training falls on the exempt officer's regular day off, the supervisor shall adjust the exempt officer's days off.

Exempt officers attending on-duty training are eligible for exempt time compensation or exempt time credit if the training causes an exempt officer to exceed the number of hours in the exempt officer's regular workday unless flextime is used.

Except as provided above, exempt time compensation and exempt time credit may be authorized only to avoid a negative impact on division operations.

10 TRAVEL TIME GAP

Except as noted below, there must be a travel time gap between an exempt officer's end of shift and the beginning time of an assignment for which the exempt officer receives exempt time compensation or exempt time credit and vice versa. The travel time gap must be realistic in association and not have an appearance of impropriety. Calculation of travel time gap shall consider the time of day, traffic, weather, and distance traveled. If travel is required, the minimum travel time gap shall be no less than 15 minutes.

When exempt officers are traveling to such an assignment in a privately owned vehicle, the requirement of a travel time gap applies. There is no travel time gap requirement when exempt officers are traveling to such an assignment using a City owned or controlled vehicle or when no travel is required.

11 EXEMPT EMPLOYEE OVERTIME COMPENSATION REQUEST FORM

Documentation on the Overtime Request Form

All eligible, exempt officers requesting exempt time compensation or exempt time credit must complete an *Exempt Employee Overtime Compensation Request* form (located on the department's Intranet Portal).

Exempt officers requesting exempt time compensation or exempt time credit shall list in the *Details* section of the overtime request form all requisite and important information. Any employees who add a comment in the *Details* section, other than the exempt officer submitting

or supervisor approving the overtime request form, shall include their name and employee number.

Submission of the Overtime Request Form

The overtime request form shall be submitted to the appropriate supervisor in the division or command for which the overtime was worked within five *calendar* days following the hours worked.

Once an officer submits an overtime request form to a supervisor, it becomes the responsibility of the receiving supervisor to ensure the timekeeper is provided any approved overtime request form within five *calendar* days after the date it was submitted to the first approving supervisor. All approved overtime request forms shall be submitted to the division's timekeeper where the overtime was performed.

Records Retention

All original approved *Exempt Employee Overtime Compensation Request* forms shall be retained by the compensating division and a copy shall be forwarded to the exempt officers' regular assigned division for placement in their division files in accordance with General Order 800-12, **Records Retention**. The above process also applies to exempt officers on temporary assignment in accordance with General Order 300-02, **Transfer of Classified Employees**.

12 SUPERVISOR RESPONSIBILITIES

Supervisors shall not delegate their authority to approve overtime requests to non-supervisory personnel. Stamped signatures for approval are prohibited.

Supervisors approving overtime request forms are responsible for ensuring exempt officers have properly documented all required information on the *Exempt Employee Overtime Compensation Request* form.

Supervisors shall ensure travel time gaps and requests for exempt time compensation, exempt time credit, and travel compensation are reasonable, proper, and in accordance with the rules outlined in this and other applicable General Orders and directives.

Other than for court attendance, the department shall determine whether exempt time shall be earned as exempt time compensation or exempt time credit.

An exempt time compensation or exempt time credit request shall not be approved if it contains obvious inaccuracies. The overtime request form shall be returned to the exempt officer for correction or explanation to the satisfaction of the supervisor. Except for obvious inaccuracies noted above, supervisors shall refer to section 13, *Denial or Removal of Exempt Time*, if the overtime request does not comply with this General Order.

Other than filling in the overtime codes and adding comments in the *Details* section, supervisors shall not make changes on a submitted overtime request form. Corrections shall be made by the submitting exempt officer.

Requests for overtime require approval by two different supervisors of ascending rank in the officer's chain of command for which the overtime was worked.

13 DENIAL OR REMOVAL OF EXEMPT TIME

Unless there is an obvious inaccuracy on an overtime request form for which an explanation or correction is needed as set forth above, exempt officers who have worked overtime cannot be denied exempt time compensation or exempt time credit, as applicable.

It is the department's stance to compensate questionable overtime and then an inquiry shall be conducted. If the overtime worked is questionable, supervisors shall approve it, note their concerns in the *Details* section of the overtime form along with the supervisor's name and employee number, submit it, and then conduct an inquiry.

If an inquiry concludes the exempt officer should not have received overtime compensation, the timekeeper shall arrange to have the overtime amount removed from the officer's pay or banked time. Furthermore, supervisors discovering an overtime violation shall adhere to the requirements of reporting employee misconduct set out in General Order 200-03, **Investigation of Employee Misconduct**.

When a determination is made that an exempt officer should not receive overtime compensation, a copy of the overtime request form and a written explanation shall be provided to the officer. The original overtime request form and a copy of the written explanation shall be forwarded to the concerned commander immediately. The original documentation shall be filed in the officer's divisional overtime file according to General Order 800-12, **Records Retention**.

Officers who wish to appeal overtime compensation denial or removal shall follow the departmental grievance process detailed in General Order 300-12, **Grievance Procedure**.

14 TIMEKEEPER RESPONSIBILITIES

Timekeepers shall enter only approved requests for exempt time compensation or exempt time credit, as applicable, into an exempt officer's records. Posting overtime worked or taken shall be done on a daily basis within system constraints except for weekends and holidays or as approved by the commander. Even if the commander approves an alternative timeframe for posting such time, timekeepers shall enter all approved overtime worked or taken before the end of each pay period.

To process exempt officers' overtime request forms, the timekeeper shall enter the following information into the Kronos system under the appropriate officer's name and employee number: date overtime was worked, appropriate A/A field code, department activity code (DAC), beginning and ending times of the overtime worked, and other appropriate information. Following entry, the timekeeper shall date and sign each overtime request form indicating the DAC and other information on the form were entered into the Kronos system. Stamped signatures attesting to entries are prohibited.

Upon completion of entering all exceptions and overtime request forms, the timekeeper shall do all of the following:

- a. Generate in Kronos and print a batch time entry report for each batch submitted.
- b. Reconcile the printed batch report with the overtime compensation and leave requests.
- c. Sign and date the reconciled batch report certifying the accuracy of the entries. Stamped signatures certifying the accuracy of entries are prohibited.
- d. Retain signed batch reports in the division in accordance with General Order 800-12, **Records Retention**.
- e. File the original overtime compensation request forms in the applicable officer's divisional overtime file and retain in accordance with General Order 800-12, **Records Retention**.

Timekeepers may make any needed and approved modifications of overtime compensation information after it has been entered into Kronos. However, if any needed and approved adjustment cannot be completed by the timekeeper, the timekeeper shall send a written request to the City of Houston's Payroll Services Division in the Administration and Regulatory Affairs Department so the adjustments can be made.

Overtime earned by a timekeeper shall be posted by the back-up timekeeper. If no back-up is available, timekeepers shall submit their approved overtime request forms to Payroll Services for entry into Kronos.

15 GENERAL GUIDELINES

Issues regarding restrictions, supervisor responsibilities, City holidays, training, reports, records, timekeeper responsibilities, call-ups, special assignments, and "earn and burn" policies not addressed in this General Order shall comply with the applicable policies outlined in General Order 300-07, **Overtime Compensation**.

16 RELATED GENERAL ORDERS AND REFERENCE MATERIAL

200-03, **Investigation of Employee Misconduct**
200-26, **Workday and Workweek**
300-02, **Transfer of Classified Employees**
300-07, **Overtime Compensation – Classified**
300-09, **Absence from Duty – Classified**
300-12, **Grievance Procedure**
300-25, **Court Attendance and Compensation**
800-12, **Records Retention**



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