

# General Order

## Houston Police Department



ISSUE DATE:

May 23, 2018

NO.

900-07

REFERENCE: This newly created General Order supersedes all prior conflicting Circulars, Directives, and General Orders

**SUBJECT: OVERTIME COMPENSATION – CIVILIAN**

### POLICY

Overtime compensation for *nonexempt* civilian employees shall be paid in accordance with federal and state statutes, the City of Houston Code of Ordinances, and the current civilian Meet and Confer Agreement.

This General Order applies to all civilian employees who are not exempt except where specifically provided (e.g., supervisors and timekeepers responsibilities).

### DEFINITIONS

**Adjusted Shift.** See General Order 200-26, **Workday and Workweek**.

**Kronos®.** The time and attendance system for the City of Houston.

**Nonexempt.** Refers to an employee whose job classification is covered by the Fair Labor Standards Act (FLSA) as being eligible for overtime compensation. For the purposes of this General Order, this includes civilian employees whose job classification has been designated by the City of Houston Human Resources Director and the Civil Service Commission as being covered by the FLSA overtime rules.

**Pay Period.** See General Order 200-26, **Workday and Workweek**.

**SAP®.** Systems Applications and Products (SAP) is the financial, purchasing, fixed-asset, payroll, and human resources program used by the City of Houston.

**Time Actually Worked.** For purposes of calculating overtime, *time actually worked* includes time the nonexempt civilian employee is actually on duty including on-duty training and City business, on a City Council declared holiday, or on authorized sick leave, vacation leave, compensatory time off, death in the family leave, or any other authorized leave. Any *accrued holiday hours* banked are not counted as *time actually worked* for the purposes of calculating overtime since the employee is not actually working on the holiday for which the holiday hours are accrued.

## **1 CALCULATION OF OVERTIME**

Nonexempt civilian employees shall earn overtime compensation after they have worked in excess of 40 hours in the workweek, including all *time actually worked*.

Nonexempt civilian employees' overtime shall be calculated based on the actual hours recorded and credited to the employee in a workweek as measured by Kronos®.

When calculating overtime compensation, quarter-hour time blocks shall be used for time entered into the Kronos system. If a nonexempt civilian employee works eight minutes or more of a quarter-hour time block, then the entire 15-minute block shall be approved for compensation. When less than eight minutes in a time block are worked, credit for that time block shall not be granted.

Except as otherwise noted in this General Order, all overtime earned shall be compensated at the rate of time and a half.

Overtime pay shall be calculated at the nonexempt civilian employee's rate of pay at the time the overtime was earned.

Other than court attendance, it is the department's decision whether to pay nonexempt civilian employees in monetary compensation or compensatory time for overtime worked. Before the overtime is worked, a supervisor shall inform the nonexempt civilian employee whether overtime will be compensated in the form of pay or compensatory time. If offered in the form of pay and the nonexempt civilian employee wishes to be paid in compensatory time, such alternative option shall be honored, if feasible, but not vice versa. However, compensatory time shall not be approved if the overtime will cause the nonexempt employee's compensatory time bank limit to be exceeded (see section 4, *Compensatory Time*).

When a nonexempt civilian employee is informed in advance that the overtime will be compensated only by compensatory time, the nonexempt employee's participation in overtime must be voluntary.

For further information regarding court attendance and compensation, supervisors and employees shall refer to General Order 300-25, **Court Attendance and Compensation**.

## 2 GENERAL RULES

Travel from home to work or the reverse is not hours worked for purposes of the Fair Labor Standards Act (FLSA). See section 3, *Call-Back Pay*, for an exception.

Nonexempt civilian employees shall not work overtime without prior authorization from the appropriate supervisor.

All overtime shall be justified as serving a specific department function or need.

Authorizing overtime for the specific purpose of allowing an employee to receive overtime compensation is strictly prohibited. Authorizing adjusted shifts resulting in overtime compensation is prohibited, unless it can be established that the adjustment is in the best interest of the department. The authorizing supervisor shall properly document the reason for the adjustment on all appropriate overtime compensation request forms (a.k.a. overtime request forms).

*Buddy Punching*, whether it results in overtime compensation or not, is also prohibited. Employees shall refer to General Order 200-26, **Workday and Workweek** for further information regarding *Buddy Punching*.

Additionally, intentional or careless working off the clock is prohibited. Nonexempt civilian employees who underreport or fail to report hours worked are subject to disciplinary action. Supervisors who allow such action shall also be subject to disciplinary action. Unless otherwise allowed by law or the applicable civilian Meet and Confer Agreement, the following applies:

- a. Nonexempt employees may not waive their right to or refuse compensation for overtime worked.
- b. Supervisors shall not order or suggest to nonexempt civilian employees to waive their right to or refuse compensation for overtime worked. See also section 13, *Denial or Removal of Overtime Compensation*.

### **3 CALL-BACK PAY**

If, after a nonexempt civilian employee's scheduled hours of work have ended and without prearrangement, the nonexempt employee is ordered by a supervisor to report immediately to a specific location for a department action other than court attendance, overtime compensation shall be authorized from the time the employee receives the notification and shall continue until the employee is released from the last location to which he was ordered to report.

The travel time allowed for compensation must be realistic in association and not have an appearance of impropriety. Travel time shall not apply to prescheduled overtime, end of shift hold-overs, or responses made via telephone or other electronic device, which shall continue to be compensated based on *time actually worked* at the applicable straight or overtime rate. Nor shall this provision apply in circumstances governed by City of Houston Code of Ordinances 14-168.

### **4 COMPENSATORY TIME**

The total number of hours of compensatory time in a nonexempt civilian employee's time bank shall not exceed 240 hours. Once the nonexempt civilian employee's compensatory time accrual reaches the 240-hour limit, all additional overtime worked shall be compensated with pay. Accrued compensatory time shall be used within 120 *calendar* days following the date accrued, provided that it does not unduly disrupt departmental operations.

Nonexempt civilian employees shall be paid for accrued compensatory time not taken within 120 *calendar* days following the date of accrual.

When nonexempt civilian employees' compensatory time banks are maximized or may become maximized because of an overtime assignment, nonexempt employees shall advise their supervisors of the fact whenever they request or are required to work overtime.

Pursuant to the civilian Meet and Confer Agreement, nonexempt civilian employees shall be given fair opportunity to take accrued compensatory time within 120 *calendar* days following the date accrued. If a nonexempt employee is within 45 days of the 120-*calendar*-day time limit for compensatory time usage, a request for compensatory time leave shall be given preference above any other leave request except emergency, vacation, or Family and Medical Leave. Also, in this 45-day period, when a nonexempt employee submits a request for compensatory

time leave and it is denied twice due to an operational need, the supervisor shall provide alternative date(s) to the nonexempt employee that would be acceptable for such leave to be taken before the time limit is reached. If the alternative dates are not acceptable to the nonexempt employee, the employee may submit other dates to the supervisor within such period with both coming to an agreement on when such compensatory time leave may be taken before it expires. If no agreement is reached as to mutually agreeable dates for leave to be taken, the nonexempt employee may proceed to the next higher level of supervision in the employee's chain of command for a final resolution as to dates for leave before the expiration date.

If a nonexempt civilian employee fails to submit a compensatory time leave request in the 30 *calendar* days before the relevant expiration time, the department may convert a request for vacation or sick time to compensatory time leave upon notice to the nonexempt employee in order to avoid the expiration of the compensatory time.

Supervisors may direct nonexempt civilian employees with compensatory time leave hours that are close to expiration to take such leave before it expires.

At the time of a nonexempt civilian employee's separation from the City of Houston, all banked compensatory time (depending on how it was accrued) shall be administered in accordance with the applicable law or the applicable Meet and Confer Agreement.

## **5 COUNCIL-APPROVED HOLIDAYS**

Only holidays designated by City Council are authorized holidays. The department may, subject to the operational requirements and needs of the department, require nonexempt civilian employees to work on a City Council declared holiday.

The following apply to nonexempt civilian employees:

- a. If a holiday falls on an employee's regular day off and he is not required to work, the employee shall receive *accrued holiday hours* equal to the employee's regular shift. Alternatively, at the discretion of the department director or designee, the timekeeper may force the system to pay holiday pay at straight time for the employee's regular shift. Since the employee is not actually working during the holiday, these paid or *accrued holiday hours* do not count as *time actually worked* and therefore are not included in calculating any overtime for the employee during the workweek.
- b. If a holiday falls on an employee's regularly scheduled workday and the employee observes the holiday, the hours count as *time actually worked* during the workweek like other paid leave for the purpose of calculating overtime.
- c. Hours worked during a holiday are *time actually worked* and therefore count toward calculating an employee's overtime for the workweek.
- d. If an employee works overtime in a workweek that contains a holiday, the employee shall be compensated at the rate of time and a half for all overtime hours worked in excess of 40 hours of *time actually worked* in the workweek.

- e. If an employee is required to work on a holiday and receives more than 24 hours' notice of that requirement, the employee shall be paid straight time (one times the regular rate) for the hours worked; plus the employee shall be compensated with pay or *accrued holiday hours* at the employee's regular rate for the hours worked for a total of two times the regular rate.
- f. If an employee receives "short notice" of the requirement to work on a holiday, the employee shall be paid straight time (one times the regular rate) for the hours worked; plus the employee shall be compensated with pay or *accrued holiday hours* at one and a half times the employee's regular rate for the hours worked for a total of two and a half times the regular rate. "Short notice" is either one of the following:
  - 1. A call in to work on a holiday.
  - 2. Less than 24 hours' notice of the requirement to work a holiday.
- g. For situations described in either item (e) or (f) above in which an employee works on a holiday, the employee shall receive in addition to the compensation outlined in item (e) or (f), overtime compensation at one-half times the employee's regular rate for any overtime hours worked on a holiday that are in excess of 40 hours in the workweek, including all *time actually worked*.
- h. The supervisor approving the holiday work shall specifically note on the overtime request form if the employee received short notice of the requirement to work.
- i. City ordinance requires employees to use *accrued holiday hours* within 180 *calendar days* following the date of accrual. Employees shall be paid for any *accrued holiday hours* not used on or before the 180th *calendar day* after the holiday for which the hours were accrued.

## **6 DAYLIGHT SAVING TIME**

At the beginning of Daylight Saving Time, which occurs each year on the second Sunday in March at 0200 hours, clocks are adjusted forward one hour. Nonexempt civilian employees whose scheduled shift is shortened by one hour due to the change in time, shall have the option of either one of the following:

- a. Burning one hour of accumulated leave.
- b. Working one hour directly before or directly after their regularly scheduled shift.

Division commanders shall ensure nonexempt civilian employees' time is accounted for accordingly. Division commanders shall also ensure a coordination of efforts between shifts when nonexempt civilian employees elect to work one hour directly before or after their regularly scheduled shift.

At the end of Daylight Saving Time, which occurs each year on the first Sunday in November at 0200 hours, clocks are adjusted backward one hour. Prior to the first Sunday in November of each year, division commanders shall determine appropriate staffing levels necessary to

provide adequate police services for the extended shift when the end of Daylight Saving Time occurs. Division commanders shall generate a sign-up list and ask for volunteers to work the additional hour on such date for overtime. If vacancies exist after everyone has been offered the opportunity to volunteer, the division shall utilize a seniority list to fill any vacancies remaining. Seniority shall be used in conjunction with each nonexempt civilian employee's preference to determine which nonexempt employees will be permitted to go off duty after having worked the number of hours in their normal shift and which nonexempt employees will be required to work the extra hour in the extended shift. Overtime shall be paid in accordance with section 1, *Calculation of Overtime*.

## 7 EARN AND BURN

The department prohibits the practice known as "Earn and Burn" in which an employee burns some personal leave time in order to work an overtime program and earn overtime. Described below are prohibitions regarding Earn and Burn.

Nonexempt civilian employees shall not use or be allowed to use (burn) any type of leave (straight time) and earn overtime compensation during the same shift.

Furthermore, if a nonexempt civilian employee burns unscheduled leave for a regularly scheduled shift in the 24-hour period before or after working any overtime program, an Earn and Burn violation has occurred unless one of the exceptions noted below applies.

Additionally, if there is a pattern of a nonexempt civilian employee burning scheduled or unscheduled leave for a regularly scheduled shift in the 24-hour period before or after working any overtime program, then a violation has occurred unless one of the exceptions noted below applies.

The following are exceptions and shall not constitute violations of the Earn and Burn policy.

- a. *Manpower Shortages, Call Backs, or Special Assignments.* Division commanders have the authority to give approval for nonexempt civilian employees to work an overtime program due to manpower shortages, call backs, or special assignments even though the employee has burned unscheduled leave. The division commander's approval shall be documented on the overtime request form.
- b. *Exceptional Circumstances.* If a nonexempt civilian employee burns unscheduled leave due to unforeseen, exceptional circumstances (e.g., family emergency) in the 24-hour period before or after working an overtime program and it is deemed appropriate by the below designated supervisor, the following shall apply:
  1. *When the employee burns up to and including half of the employee's regularly scheduled shift (e.g., 4 hours of an 8 hour shift), a supervisor may approve the employee to work an overtime program. The supervisor may also determine a violation has not occurred if the time burned occurs after working an overtime program. The supervisor's approval shall be documented on the overtime request form.*
  2. *When an employee burns more than half of the employee's regularly scheduled shift due to exceptional circumstances, the division commander may approve the employee*

to work an overtime program. The division commander may also determine a violation has not occurred if the time burned occurs after working an overtime program. The division commander's approval shall be documented on the overtime request form.

If an Earn and Burn violation occurs, the nonexempt civilian employee may be prohibited from working any overtime program in the future and may be investigated in accordance with the department's disciplinary system. The division commander shall make the final determination of whether a nonexempt civilian employee is prohibited from working an overtime program. Additionally, division commanders have the final decision on questions regarding the Earn and Burn policy.

## **8 FLOATING HOLIDAYS**

The hour value of a floating holiday shall be equal to an employee'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 employee is required to work or attend court during the employee's regular shift on a day previously approved as a floating holiday, the entire holiday shall remain unused and must be rescheduled.

## **9 ON-DUTY TRAINING**

Nonexempt civilian employees 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 nonexempt civilian employee's regular day off, the supervisor shall adjust the employee's days off.

Nonexempt civilian employees attending on-duty training are eligible for overtime compensation if the training causes the nonexempt civilian employee to exceed 40 hours of *time actually worked* in the workweek. Nonexempt civilian employees shall have their arrival and departure times certified by a member of the Academy staff.

Except as provided above, overtime may be authorized only to avoid a negative impact on division operations.

## **10 TRAVEL TIME GAP**

Except as noted below, there shall be a non-compensated travel time gap between a nonexempt civilian employee's end of shift and the beginning time of an overtime assignment and vice versa. The travel time gap shall 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 nonexempt civilian employees are traveling to an overtime assignment in a privately owned vehicle, the requirement of a travel time gap applies. There is no travel time gap requirement when nonexempt civilian employees are traveling to an overtime assignment using a City owned or controlled vehicle or when no travel is required.

## 11 NONEXEMPT EMPLOYEE OVERTIME COMPENSATION REQUEST FORM

### Documentation on the Overtime Request Form

Nonexempt civilian employees requesting overtime compensation shall use the appropriate form (e.g., *Nonexempt Employee Overtime Compensation Request* form located on the department's Intranet Portal, *Court Overtime Request* form available at the courthouse).

Nonexempt civilian employees requesting overtime compensation shall list in the *Details* section the reasons for the overtime, any reference numbers, and who authorized the overtime.

When subpoenaed to Municipal Court or the Harris County Courthouse complex, nonexempt civilian employees who request overtime compensation and are unable to arrive at the court liaison office within 15 minutes after being dismissed from the courtroom shall document in the *Details* section sufficient details explaining why the employee was unable to arrive within 15 minutes.

If nonexempt civilian employees need extra room to make comments, they shall use the back of the form (if it is blank) or a separate piece of paper. Nonexempt civilian employees shall note on the first page if the comments continue on the back or separate paper.

If an employee other than the nonexempt civilian employee submitting or supervisor approving the overtime request form adds a comment in the *Details* section, that employee shall include his name and employee number.

### Submission of the Overtime Request Form

Nonexempt civilian employees requesting overtime compensation in the form of either pay or compensatory time shall submit the appropriate overtime request form to their immediate supervisor. However, if a nonexempt civilian employee's immediate supervisor is on approved leave, the overtime request form shall be submitted to another supervisor in the employee's assigned division for approval. If the overtime was worked outside the nonexempt employee's assigned division, the nonexempt employee shall submit the overtime request form to the appropriate supervisor in the division for which the overtime was worked.

Nonexempt civilian employees shall submit the overtime request form as set forth above immediately upon completion of the hours worked.

Once a nonexempt civilian employee submits an overtime request form to a supervisor, it becomes the responsibility of the receiving supervisor to ensure the timekeeper is immediately provided the approved overtime request form so the department activity code (DAC) can be entered prior to the end of the pay period. All overtime request forms shall be submitted to the division's timekeeper where the overtime was performed.

### Records Retention

All original approved overtime request forms shall be retained by the compensating division and a copy shall be forwarded to the nonexempt civilian employees' regular assigned division for placement in their division files in accordance with General Order 800-12, **Records Retention**.

## **12 SUPERVISOR RESPONSIBILITIES**

### **Overtime Request Form**

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

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

Supervisors shall ensure that times on an overtime request form do not overlap with the nonexempt civilian employee's regular shift. Supervisors shall pay special attention when nonexempt civilian employees adjust their shift or take off partial days.

An overtime compensation request shall not be approved if it contains obvious inaccuracies. The overtime request form shall be returned to the employee 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 Overtime Compensation*, if the overtime compensation request does not comply with this General Order.

Other than filling in the DAC, if still blank, 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 nonexempt civilian employee.

Requests for overtime compensation require approval by two different supervisors of ascending rank in the employee's chain of command for which the overtime was worked (see section 11, *Overtime Compensation Request Form*).

Supervisors shall not staff weekend duty assignments with nonexempt civilian employees on overtime except when minimum staffing requirements cannot be met or for emergencies or special situations. These staffing situations shall be documented and authorized by the appropriate commander.

### **Approval in Kronos**

Unless a nonexempt civilian employee's supervisor delegates his authority in Kronos to another supervisor, the nonexempt employee's supervisor is responsible for reviewing and approving the employee's Timecard and overtime in Kronos.

## **13 DENIAL OR REMOVAL OF OVERTIME COMPENSATION**

Unless there is an obvious inaccuracy on an overtime request form for which an explanation or correction is needed as set forth in section 12, *Supervisor Responsibilities*, nonexempt civilian employees who have worked overtime cannot be denied compensation.

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 request form along with the supervisor's name and employee number, submit it, and then conduct an inquiry.

If an inquiry concludes the nonexempt civilian employee should not have received overtime compensation, the timekeeper shall arrange to have the overtime amount removed from the employee'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 a nonexempt civilian employee should not receive overtime compensation, a copy of the overtime request form and a written explanation shall be provided to the employee. The original overtime request form and a copy of the written explanation shall be forwarded to the concerned division commander immediately. The original documentation shall be filed in the employee's divisional overtime file according to General Order 800-12, **Records Retention**.

Employees 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**

Commanders shall ensure the number of overtime hours worked or taken by employees under their command are verified and/or posted in the Kronos system in the individual employees' computerized overtime records by the timekeeper. Timekeepers shall finalize only approved requests for overtime compensation in an employee's overtime records. Posting and/or verifying 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, timekeepers shall enter and/or verify in the Kronos system all approved overtime worked or taken before the end of each pay period. Kronos updates the SAP® system on a biweekly basis.

For civilian employees' overtime request forms, the timekeeper shall verify the information on the forms with that in the Kronos system and enter into Kronos the appropriate DAC and any other required information. Following entry and/or verification, the timekeeper shall date and sign each overtime request form indicating the DAC and other information on the form were entered and/or verified in the Kronos system. Stamped signatures attesting to entry and/or verification are prohibited.

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

- a. Generate in Kronos and print a batch 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 request forms in the applicable employee'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 adjustments 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 verified by the back-up timekeeper. If no back-up is available, timekeepers shall submit their approved overtime request forms to Payroll Services for verification in Kronos.

## **15 RELATED GENERAL ORDERS AND REFERENCE MATERIAL**

200-26, **Workday and Workweek**  
300-12, **Grievance Procedure**  
300-25, **Court Attendance and Compensation**  
800-12, **Records Retention**  
900-01, **Absence from Duty – Civilian**  
**U.S. Department of Labor, Fair Labor Standards Act (FLSA)**  
**Code of Ordinances City of Houston, Texas**  
**Civilian Meet and Confer Agreement**  
**City of Houston Administrative Procedure 2-4 Revised, Electronic Timekeeping Policy**



**Art Acevedo**  
**Chief of Police**