

CHAPTER 24
OVERTIME
REVISED OCTOBER 2020
TABLE OF CONTENTS

<u>GENERAL INFORMATION</u>	24-3
Excluded Employees.....	24-3
Represented Employees.....	24-3
Work Week Groups.....	24-3
Definitions.....	24-3
<u>WORK WEEK GROUP 2 EMPLOYEES</u>	24-4
Hours Worked to Determine Overtime.....	24-4
Overtime Credit.....	24-4
Overtime for Nonuniformed Employees.....	24-4
Overtime for Officers and Sergeants.....	24-6
<u>WORK WEEK GROUP E AND WORK WEEK GROUP SE EMPLOYEES</u>	24-7
<u>APPROVAL OF OVERTIME</u>	24-7
Division Chiefs' Responsibility.....	24-7
Commanders' Responsibility.....	24-7
Supervisors' Responsibility.....	24-7
Method of Compensation.....	24-7
<u>CASH PAYMENT FOR OVERTIME WORKED</u>	24-7
<u>COMPENSATING TIME OFF FOR OVERTIME WORKED</u>	24-8
Transfer of Compensating Time Off Credits.....	24-8
Compensating Time Off Paid at Separation.....	24-8
Maximum Accumulation of Compensating Time Off.....	24-8
Authorization for Sergeants Earning Compensating Time Off.....	24-9
Authorization for Officers Earning Compensating Time Off.....	24-9
Compensating Time Off Usage.....	24-9
<u>REPORTING OVERTIME</u>	24-10
Nonuniformed Employees.....	24-10
Officers and Sergeants.....	24-10
<u>MAXIMUM WORK HOURS–UNIFORMED EMPLOYEES</u>	24-10
<u>OVERTIME EARNED IN SAME WORK DAY AS LEAVE CREDITS USED</u>	24-10
<u>REIMBURSABLE SERVICES DETAILS IN THE SAME WORK DAY AS LEAVE CREDITS USED</u>	24-11
<u>TRAVEL TIME</u>	24-11
Work Week Group 2 Employees.....	24-11
Home to Work.....	24-11
Home to Work in Emergency Situations.....	24-12

. Home to Work on Special One-Day Assignment in Another City.....	24-12
Travel That is All in the Day's Work	24-13
Travel Away from Home Community	24-13
When a Private Automobile is Used on Travel Away from Home Community.....	24-13
Work Performed While Traveling	24-13
<u>CALL-BACK TIME</u>	24-14
Call-Back Credit	24-14
Call-Back Credit in Same Work day as Leave Credit Used	24-14
Call-Back Travel.....	24-15
Call-Back Rule Application.....	24-15
<u>MISCELLANEOUS OVERTIME PROVISIONS</u>	24-16
On-Call/Standby	24-16
Daylight Savings/Standard Time Change	24-17
Patrol Augmentation.....	24-17
Funerals	24-17
Rest Periods for Public Safety Dispatchers.....	24-17
Overtime Meal Allowance.....	24-17
Special Travel Allowance	24-18

CHAPTER 24

OVERTIME

1. GENERAL INFORMATION.

- a. Excluded Employees. This chapter provides policy and procedures regarding overtime for excluded employees.
- b. Represented Employees. Represented employees shall be compensated for overtime worked in accordance with the provisions of their Work Week Group (WWG) and bargaining unit (BU) agreement. If there is a conflict between the WWG provision and the BU agreement, the agreement is controlling, except for the federally mandated Fair Labor Standards Act (FLSA) provisions of WWG 2.
- c. Work Week Groups. All classifications in the Department are assigned to WWG 2, WWG E, or WWG SE. Employees in WWG E and SE are exempt from FLSA provisions.
- d. Definitions.
 - (1) Overtime. Overtime is authorized time worked in excess of the regularly scheduled 40-hour work week (nonuniformed) or 28-day work period (officers and sergeants), as defined under WWG 2 Employees, WWG E and SE Employees, Travel Time, and Call Back Time.
 - (2) Work Day. Commanders shall establish a work day for all employees. The work day shall commence at the start of the employee's shift and end 24 hours later. When an employee's shift assignment is changed (e.g., days to evenings, evenings to nights), the employee's new work day will be established on the day commencing with the new shift and run for a period of 24 hours.
 - (3) Work Week. A work week is a fixed and regularly occurring seven consecutive-day period. The standard 7-day, 40-hour work week begins on Sunday at the employee's shift start time and ends 7 consecutive 24-hour periods later. When the employee's shift start time is changed on any day except Sunday, the new 7 consecutive 24-hour periods do not begin until the new start time on the Sunday following the change. The beginning of a work week may be changed if the change is intended to be permanent and it is not designed to circumvent the FLSA overtime provisions. (For alternate work week employees, refer to Chapter 28, Attendance Reporting, of this manual.)
 - (4) Work Period-Officers and Sergeants. A work period is a regular and recurring 28 consecutive-day period used for scheduling and the computation

of overtime under FLSA. It begins at the employee's shift start time and ends 28 consecutive 24-hour periods later. Title 29 United States Code, Labor, Chapter 8, Fair Labor Standards, Section 207, Maximum Hours, subsection (k), permits employers of law enforcement personnel to establish a work period of 28 consecutive 24-hour periods instead of the standard 7-day, 40-hour work week. The work period may be changed if the change is intended to be permanent and is not designed to circumvent the FLSA overtime provisions. (Refer to Chapter 28, of this manual, and the FLSA Work Period/Pay Period Calendar found on the California Highway Patrol [CHP] Intranet site by selecting "Resources, Calendar, FLSA Work/Pay Period Calendar.")

2. WORK WEEK GROUP 2 EMPLOYEES.

a. Employees in WWG 2 classifications are subject to the minimum wage and overtime provisions of FLSA. Departmental classifications that are not listed in Chapter 28, Annex A, Work Week Groups E and SE Departmental Classifications, of this manual, are assigned to WWG 2.

b. Hours Worked to Determine Overtime.

(1) Paid Leave in Same Week as Overtime. With the exception of officers and sergeants, under the provisions of Government Code Section 19844.1(a), for the purpose of computing the number of hours worked, time when an employee is excused from work because of holidays, sick leave, vacation, annual leave, personal leave, compensating time off (CTO), or any other leave shall not be considered as time worked by the employee for the purpose of computing cash or CTO for overtime.

(2) Bargaining Unit 5 and Uniformed Supervisory Employees. For the purpose of computing the number of hours worked for officers and sergeants, time when an employee is excused from work because of sick leave, vacation, annual leave, personal leave, or CTO shall be considered as time worked by the employee.

c. Overtime Credit. Overtime will be credited on a one-quarter-hour basis with a full quarter hour credit to be granted if half or more of the period is worked. Smaller fractional units will not be accumulated.

d. Overtime for Nonuniformed Employees. Overtime under FLSA for nonuniformed WWG 2 employees occurs when an employee works in excess of 40 hours in a work week, not after 8 hours in a work day, nor after 173.33 hours in a pay period for full-time employees. Compensation may be made by cash or CTO. Part-time employees are not eligible to elect CTO in lieu of paid overtime until after

they have been compensated in cash for all hours worked up to 40 hours in a work week.

(1) Calculating Overtime Rate. The rate of cash compensation paid for overtime shall be time-and-one-half the hourly equivalent of the employee's total monthly salary, including specialty pay, as of the time the overtime was worked. The overtime hourly rate is calculated by dividing the employee's total monthly salary rate including any excess cash received under the Consolidated Benefits (CoBEN) allowance program or the cash amount paid in-lieu-of health and/or dental benefits, dental benefits, dental incentives by 173.33, and multiplying the result by 1.5 (time-and-one-half).

(2) Compensating Time Off for Overtime Worked. Compensating time off is earned on a time-and-one-half basis for every hour of actual time worked in excess of 40 hours in a regular work week.

(3) Overtime Compensated at a Straight Time Rate. An employee who does not have 40 hours of actual time worked in a work week shall not be entitled to the time-and-one-half overtime rate. Hours worked in excess of the employee's normal scheduled work hours in a day shall be compensated at the straight time rate. The following are examples for which the employee would be entitled to compensation at a straight time rate:

a. Example-4/10 Alternate Work Week Schedule. The employee works three, 10-hour days (30 hours) in a work week with 1 holiday (8 hours credit), 2 hours of leave credits used, and 13 hours of overtime. The total hours counted as time worked is 43 hours. The employee is entitled to 10 hours of overtime compensated at a straight time rate and 3 hours (the number of hours that exceeds 40 hours in the work week) compensated at the time-and-one-half rate.

b. Example-9/80 Alternate Work Week Schedule. The employee works three, 9-hour days (27 hours) and half of their 8-hour split day (4 hours) during a work week with 1 holiday (8 hours credit), 1 hour of leave credits used, and 3 hours of overtime. The total hours counted as time worked is 34. The employee is entitled to 3 hours of overtime compensated at the straight time rate and 0 hours (the number of hours that exceeds 40 hours in the work week) compensated at the time-and-one-half rate.

c. Example-Time Off Without Pay During Work Week. The employee works four, 8-hour days (32 hours), has one, 8-hour day off without pay (8 hours), and works 11 hours of overtime. The total time counted as time worked is 43 hours. The employee is entitled to 8 hours of overtime compensated at the straight time rate and 3 hours (the number of hours

that exceeds 40 hours in the work week) compensated at the time-and-one-half rate.

e. Overtime for Officers and Sergeants. Overtime is authorized time worked in excess of 8 and one-half hours per work day or ordered work on scheduled days off except as noted below. Officers and sergeants are assigned to WWG 2 and are eligible for overtime compensation as follows:

(1) 8.5-Hour Work Schedule. Employees assigned to the 8.5-hour work shift shall be scheduled for twenty, 8.5-hour shifts per each 28-day work period. Overtime for officers and sergeants on the 8.5-hour work schedule is defined as all hours worked in excess of 170 hours in a 28-day work period.

(2) 9.5-Hour Work Schedule. Employees assigned to the 9.5-hour work shift shall be scheduled for eighteen, 9.5-hour shifts per each 28-day work period. This schedule shall include at least 10 regular days off (RDO) in each 28-day work period. Overtime for officers and sergeants on the 9.5-hour schedule is defined as all hours worked over 171 hours in a 28-day work period. Each employee working this schedule shall be credited with either one-half hour or 1 hour of CTO at straight time for time worked more than 170 hours, but less than 171 hours every 28-day work period. If leave credits are used for one day during the work period, the employee shall be credited with one-half hour CTO at a straight time rate.

(3) 12.5-Hour Work Schedule. Employees assigned to the 12.5-hour work shift shall be scheduled no less than twelve, 12.5-hour days and up to 2 days of less than 12.5 hours. This schedule shall include at least 14 RDOs in each combination of up to 14 work days may be utilized. This combination shall include no less than twelve, 12.5-hour days and up to 2 days of less than 12.5 hours.

(4) Calculating Overtime Rate. The rate of cash compensation paid for overtime shall be time-and-one-half the hourly equivalent of the employee's total monthly salary, including specialty pay, as of the time the overtime was worked. The overtime hourly rate is calculated by dividing the employee's total monthly salary including any excess cash received under the CoBEN allowance program or the cash amount paid in-lieu-of health and/or dental benefits, dental benefits, dental incentives by 184.17 (which is the equivalent of a 42.5-hour work week or 170-hour work period of 28 days) and multiplying the result by 1.5 (time-and-one-half).

(5) Compensating Time Off for Overtime Worked. Compensating time off is earned on a time-and-one-half basis for every hour worked.

(6) Fair Labor Standards Act One-Half Time Payments. If officers or sergeants not on a 9.5-hour work day are scheduled with less than the required number of regular days off, the employee shall be entitled, in accordance with their work week schedule, to one-half time payment for the hours that exceed 170 hours in the work period. Employees on a 9.5-hour work day are entitled to one-half time payment for hours that exceed 171 hours in the work period. (Refer to Chapter 28, of this manual.)

3. WORK WEEK GROUP E AND WORK WEEK GROUP SE EMPLOYEES.

Employees in these WWGs shall not receive any form of additional compensation, whether formal or informal, unless otherwise provided by the provisions of these work week groups. However, employees in WWG E or WWG SE authorized to work on a holiday shall receive up to 8 hours of holiday credit for hours worked on the holiday. (Refer to Chapter 28, Annex A, of this manual.)

4. APPROVAL OF OVERTIME.

a. Division Chiefs' Responsibility. Division Chiefs shall:

(1) Review overtime procedures within their commands at frequent intervals to ensure compliance with WWG provisions, BU agreements, and departmental policies and procedures.

(2) Review the CTO balances of employees and implement a plan to ensure that CTO balances do not exceed the maximum cap per BU agreements.

b. Commanders' Responsibility. Commanders shall be responsible for the legality, validity, recording, and control of all overtime (paid or CTO) claimed by employees within their commands.

c. Supervisors' Responsibility. Supervisors shall be responsible for approving overtime. A supervisor shall not allow an employee to perform overtime work without prior authorization.

d. Method of Compensation. Employees in WWG 2 may request either CTO or cash payment as the method of compensation for overtime worked. The decision on the method of compensation shall be at the discretion of the commander. Equitable allocation of available funds and the feasibility of granting CTO shall be considered in determining and approving the method of compensation.

5. CASH PAYMENT FOR OVERTIME WORKED.

- a. Authorization for cash payment for overtime worked by any employee must be established in advance.
- b. Cash payment for overtime earned is subject to the availability of funds.
- c. Paid overtime is not subject to a maximum hourly rate.
- d. The only deductions made from overtime pay warrants are for federal and state withholding tax and social security/medicare, except for employees who are not subject to social security/medicare or have reached the maximum for the tax year.
- e. The withholding tax deductions from overtime pay warrants are calculated by the flat-rate tax method, which is 25 percent for the federal government and 6.6 percent for the state.

6. COMPENSATING TIME OFF FOR OVERTIME WORKED.

- a. Commanders may authorize CTO for overtime worked in lieu of cash compensation.
- b. Employees authorized for CTO as the method of compensation for overtime earned may not elect to be paid for the overtime at a later date.
- c. Transfer of Compensating Time Off Credits. Compensating time off credits earned by an employee cannot be transferred to another employee, unless specifically provided by a BU agreement, catastrophic leave policy, or transfer of leave credits for family members. (Refer to Chapter 13, Transfer of Leave Credits, of this manual.)
- d. Compensating Time Off Paid at Separation. Upon termination of employment, unused CTO shall be paid in cash at a rate not less than the average regular rate received by the employee during the last three years, or the final regular rate received by the employee, whichever is higher.
- e. Maximum Accumulation of Compensating Time Off. Accumulation of CTO shall be kept to a minimum.
 - (1) Nonuniformed employees may earn up to 240 hours of CTO. Hours earned in excess of 240 hours shall be converted to paid overtime.
 - (2) Officers and sergeants may earn up to 480 hours of CTO. Hours earned in excess of 480 hours shall be converted to paid overtime as provided in the BU 5 agreement.

f. Authorization for Sergeants Earning Compensating Time Off. It is departmental policy that CTO be authorized when sergeants are required to work overtime performing any of the duties listed below:

(1) When on travel status not connected with enforcement duties (e.g., travel to or from the Academy or other school for the purpose of training). Travel in conjunction with a court appearance is considered an enforcement duty.

(2) When on training status (e.g., monthly unit organization meetings or other required training conducted at command level).

(3) When assigned to desk or office duties. Public information officers, headquarters assignments, etc., are considered to be desk or office duties.

(4) When participating in monthly pistol qualifications. Overtime is not authorized for participation or attendance at competitive pistol matches.

(5) When instructing at the Academy or other school as required by the Department.

g. Authorization for Officers Earning Compensating Time Off. Compensating time off will be authorized for officers in accordance with the BU 5 agreement.

h. Compensating Time Off Usage.

(1) Monitoring Compensating Time Off Usage. Commanders shall monitor CTO usage for their employees in order to keep excess balances to a minimum. Care shall be taken to ensure that nonuniformed excluded employees use CTO within 12 pay periods from the pay period in which it was earned and that represented employees use CTO in accordance with their BU agreement.

(2) Scheduling Compensating Time Off Usage. Scheduling of when CTO credits may be used shall be at the discretion of the commander.

(3) Ordered Compensating Time Off Usage. Commanders may order that CTO credits be used unless prohibited by a BU agreement. The employee should be given reasonable advance notice (at least 24 hours).

(4) Increments of Usage. The California Code of Regulations, Title 2, Section 599.705 provides that excluded employees may use CTO in units of one-eighth hour or multiples thereof. Commanders shall, whenever possible and when the efficiency of the departmental operation will not be seriously impaired, schedule CTO in increments of 8 hours, although increments of less

than 8 hours may be permitted. (Refer to BU agreements for represented employees.)

(5) Compensating time off credits shall not be used before they are earned.

7. REPORTING OVERTIME.

a. Nonuniformed Employees. Nonuniformed employees shall complete a CHP 71, Attendance Report, to report all overtime worked. (Refer to Chapter 28, of this manual.)

b. Officers and Sergeants. Officers and sergeants shall enter overtime into the Activity Tracking System to report all overtime worked by the category necessitating the overtime assignment.

8. MAXIMUM WORK HOURS—UNIFORMED EMPLOYEES.

a. For the purpose of assigning voluntary overtime details, uniformed employees shall not be considered available if the assignment would result in the employee working more than 16.5 hours in any 24-hour period.

b. In calculating the number of hours projected to be worked in any 24-hour period, scheduled work shifts shall take precedence over voluntary overtime details.

c. Exceptions may be made for exigent or emergency situations and shall be approved by the employee's supervisor.

d. These limitations are in addition to the driving time restrictions described in Highway Patrol Manual (HPM) 11.1, Administrative Procedures Manual, Chapter 2, Travel Advances and Expense Claims.

9. OVERTIME EARNED IN SAME WORK DAY AS LEAVE CREDITS USED.

a. Employees should not earn overtime in the same day as scheduled leave credits are used.

b. In those instances when overtime is unavoidable and is worked on the same day as leave credits are used, the employee is entitled to overtime compensation. Leave time is not reduced by the number of overtime hours worked.

Example: An employee's normal shift is 0800 to 1645 hours. Two hours of vacation are charged from 1000 to 1200 hours. The employee is required to work until 1845 hours, 2 hours beyond the end of the shift. The employee's time for that

work day would be recorded as 6 hours regular time, 2 hours vacation, and 2 hours overtime.

10. REIMBURSABLE SERVICES DETAILS IN THE SAME WORK DAY AS LEAVE CREDITS USED.

a. Commands have the authority under the terms of the BU 5 Memorandum of Understanding (MOU) to mandatorily assign officers to work reimbursable services details; however, if the employee is on an RDO, the Call Back provision of the BU 5 MOU would apply. The Department, in concurrence with the California Department of Human Resources, will continue to authorize commanders to approve such requests under the following conditions.

(1) The command's ability to provide service to the public is not adversely impacted.

(2) Attempts were made to assign overtime details to available personnel who are on an RDO or would be working overtime outside of their regular shift hours or personnel who are on a prescheduled vacation. This will include supervisors if officers are not available.

(3) When the above conditions have been met, and the reimbursable services detail has not been filled, supervisors may authorize a discretionary day off. Officers and supervisors may utilize leave credits to satisfy their scheduled work shift and may be assigned to work reimbursable services overtime details. Additionally, all assignments require supervisory approval to ensure compliance with existing departmental policy.

(4) When the overtime cannot be filled within an Area using the above listed steps, adjacent commands should be contacted to determine if they have personnel available, utilizing the listed criteria.

b. These guidelines are only applicable when filling reimbursable services overtime details and shall not be used to fill departmentally funded overtime details.

11. TRAVEL TIME.

a. Work Week Group 2 Employees. The travel time of employees in WWG 2 shall only be considered as time worked if it meets the definitions and requirements of travel time in Sections 785.35 through 785.41 of Title 29 of the Code of Federal Regulations (CFR).

b. Home to Work. Employees who travel from their home before their regular work day and return to their home at the end of the work day are engaged in ordinary home-to-work travel which is a normal occurrence of employment. This is true whether the employee works at a fixed location or at a different job site each day. Normal travel from home to work is not work time. (Refer to Title 29, CFR Section 785.35.)

c. Home to Work in Emergency Situations. There may be instances when travel from home to work is overtime. For example, if an employee has gone home after completing the day's work but is subsequently called out at night to travel a substantial distance to perform an emergency job, all time spent on such travel is working time. (Refer to Title 29, CFR Section 785.36.)

d. Home to Work on Special One-Day Assignment in Another City. Refer to Title 29, CFR Section 785.37.

(1) A problem arises when an employee who regularly works at a fixed location in one city is given a special 1-day work assignment in another city.

Example: An employee who works in Sacramento, with regular working hours of 0800 to 1700 hours, with a 1-hour lunch period, is given a special assignment in Los Angeles, with instructions to leave Sacramento at 0700 hours. The employee arrives in Los Angeles at 1200 hours, ready for work. The special assignment is completed at 1500 hours and the employee arrives back in Sacramento at 1900 hours. Such travel cannot be regarded as ordinary home to work travel occasioned merely by the fact of employment. It was performed for the employer's benefit and at their special request to meet the needs of the particular and unusual assignment. It would thus qualify as an integral part of the "principal" activity which the employee was hired to perform on the work day in question, it is like travel involved in an emergency call (Title 29, CFR, Section 785.36) or travel that is all in the day's work (Title 29, CFR, Section 785.38). All the time involved, however, does not have to be counted. Since, except for the special assignment, the employee would have had to report to their regular work site, the travel between their home and the railroad depot or airport may be deducted, it being in the "home-to-work" category. Also, the usual meal time would be deductible.

(2) Deduction of Commute and Lunch Time. When an employee travels on a 1-day assignment to another city, the employee's normal commute time and lunch period may be deducted from hours counted as time worked.

Example: An employee who works in San Francisco with regular working hours of 0800 to 1700 hours, with a 1-hour lunch period, is directed to work in Sacramento the next day. The employee's normal commute time is 30 minutes each way to and from the regular work site. The employee leaves at 0600

hours and drives a state (or private) car to Sacramento, arriving at 0800 hours. The employee takes the regular 1-hour lunch and works until 1700 hours. The employee then drives back to San Francisco, arriving home at 1900 hours. Again, this travel is not regarded as ordinary home-to-work travel and the time between 0600 and 1900 hours minus 1-hour commute time and 1-hour lunch time (11 hours) is counted as hours worked.

e. Travel That is All in the Day's Work. Time spent by employees on travel as part of their principal activity, such as travel from job site to job site during the work day, must be counted as hours worked. When an employee is required to report at a meeting place to receive instructions, to perform other work there, or to pick up and to carry tools, the travel from the designated place to the work place is part of the day's work and must be counted as hours worked regardless of contract, custom, or practice. If an employee normally finishes their work on the premises at 1700 hours but is sent to another job, which they finish at 2000 hours, and is required to return to their employer's premises arriving at 2100 hours, all of the time is considered working time. However, if the employee goes home instead of returning to their employer's premises, the travel after 2000 hours is home-to-work travel and is not hours worked. (Refer to Title 29, CFR Section 785.38.)

f. Travel Away from Home Community. Travel that keeps an employee away from home overnight is travel away from home. Travel away from home is clearly work time when it cuts across the employee's work day. The employee is simply substituting travel for other duties. The time is not only hours worked on regular working days during normal working hours, but also during the corresponding hours on nonworking days. Thus, if an employee regularly works from 0900 to 1700 hours, Monday through Friday, the travel time during these hours is work time on Saturday and Sunday as well as on the other days. Regular meal period time is not counted. As an enforcement policy, Divisions will not consider "work time" time spent on travel away from home outside of regular hours as a passenger on an airplane, train, boat, bus, or automobile. (Refer to Title 29, CFR Section 785.39.)

g. When a Private Automobile is Used on Travel Away from Home Community. If an employee is offered public transportation, but requests permission to drive their car instead, the employer may count as hours worked either the time spent driving the car or the time they would have had to count as hours worked during working hours if the employee had used the public conveyance. (Refer to Title 29, CFR Section 785.40.)

h. Work Performed While Traveling. Any work which an employee is required to perform while traveling must be counted as hours worked. An employee who drives a truck, bus, automobile, boat, or airplane, or an employee who is required to ride therein as an assistant or helper, is working while riding, except during bona

vide meal periods or when they are permitted to sleep in adequate facilities furnished by the employer. (Refer to Title 29, CFR Section 785.41.)

12. CALL-BACK TIME.

a. Call-Back Credit. California Code of Regulations, Title 2, Section 599.708 provides for call-back credit to employees in WWG 2. The rule provides that an employee, who has completed a normal work shift or is on an authorized day off, when ordered back to work, shall be credited with a minimum of four hours work time, provided the callback to work is without having been notified prior to completion of the work shift, or the notification is prior to completion of the work shift and the work begins more than three hours after the completion of the work shift.

(1) When such an employee is called back under these conditions within four hours of the beginning of a previous call or an additional call is received while still working on an earlier callback, the employee shall not receive an additional four hours credit for the new callback.

(2) When such an employee is called back within four hours of the beginning of the employee's next shift, call-back credit shall be received only for the hours remaining before the beginning of the employee's next shift.

b. Call-Back Credit in Same Work Day as Leave Credit Used. The following are examples of call-back credit in the same work day as leave credit is used:

(1) Employees who are called back to work during their regular shift hours on a day that they are officially on leave credit (sick leave, vacation/annual leave, or CTO) shall be credited with a minimum of four hours work time, in addition to any leave credits used prior to the time the employee reports for work (e.g., employee is on a vacation day; regular shift is 0800 to 1700 hours; employee is called back at 1500 hours and works until 1700 hours; employee's time for the work day would be recorded as 6 hours vacation, 2 hours regular time, and 2 hours overtime).

Work Day Begins/ Shift Begins	Callback to Work	Shift Ends/ Return Home	Work Day Ends
0800 Hours 6/6/2019	1500 Hours	1700 Hours	0759 Hours 6/7/2019
Vacation = 6 Hours Call-Back Time = 4 Hours Minimum		Regular Time = 2 Hours Overtime = 2 Hours	

In this instance, the leave credits are reduced by the number of hours actually worked during the employee's regular shift because that portion of the leave is

officially canceled upon callback. The remaining two hours of the four-hour minimum is credited as overtime.

(2) Employee's regular shift is 1345 to 2215 hours; employee uses two hours sick leave from 2015 to 2215 hours. Employee is called back at 0800 hours the following morning which is still within the employee's work day.

Work Day Begins/ Shift Begins	Shift Ends	Court Appearance	Work Day Ends
1345 Hours 6/6/2019	2215 Hours	0800 Hours 6/7/2019	1344 Hours 6/7/2019
Regular Time = 6 Hours Sick Leave = 2 Hours		Call-Back Time = 4 Hours Minimum	

Employee's time for the day would be recorded as six hours regular time, two hours sick leave, and four hours callback. In this instance, the callback is **outside** the regular shift hours. Therefore, leave credits are not officially canceled upon callback and are **not** reduced.

(3) Employee is on a vacation day; regular shift is 0700 to 1530 hours; employee is called back at 1930 hours and returns home at 2400 hours.

Work Day Begins/ Shift Begins	Shift Ends	Callback to Work	Return Home	Work Day Ends
0700 Hours 6/6/2019	1530 Hours	1930 Hours 6/6/2019	2400 Hours 6/7/2019	0659 Hours 6/7/2019
Vacation = 8 Hours		Call-Back Time = 4 1/2 Hours		

Employee's time for the day would be recorded as eight hours vacation and four and one-half hours callback. The employee was on an authorized day off (vacation) and the callback was **outside** the regular shift hours.

c. Call-Back Travel. Refer to paragraph 11.c. of this chapter.

d. Call-Back Rule Application. The following are examples of interpretations within the call-back rule:

(1) If an employee is on a normal day off or a holiday and is called back to work, they shall be credited with a minimum of four hours call-back time.

(2) If an employee works without interruption beyond their normal shift, they do not gain four hours call-back time; regular overtime provisions apply.

(3) If overtime continues beyond the four-hour call-back time, the additional time shall be credited in units of one-quarter hour.

(4) If an employee is called back to work, completes the call-back situation, and returns home only to be called out again more than four hours after receiving the first call, the employee is entitled to an additional four hours of call-back time.

(5) When staff meetings, training sessions, or work assignments are regularly scheduled on an employee's authorized day off, the employee shall be credited with a minimum of four hours of work time. When staff meetings and training sessions are regularly scheduled on an employee's normal work day and outside the employee's normal work shift, overtime compensation shall be received in accordance with the regulations governing overtime.

13. MISCELLANEOUS OVERTIME PROVISIONS.

a. On-Call/Standby. On-call or standby time is time an employee spends, usually away from the job site, under a requirement to be available to return to work on short notices, as the need arises. Under the requirements of FLSA, eligible employees shall be compensated when such time was spent "predominantly for the employer's benefit."

(1) Determining Entitlement. Based on a totality of circumstances, the following factors shall be considered in determining whether or not an employee is entitled to on-call/standby compensation:

(a) Physical restrictions placed on the employee to remain at a particular locale while on-call;

(b) Maximum period of time in which the employee is allowed to return to work (response time);

(c) Percentage of calls the employee is expected to return (as determined by whether the employee responds to every call or only when the employee deems it convenient);

(d) Restrictions on an employee's ability to engage in personal pursuits; and

(e) The need to respond to a call under penalty of disciplinary action.

(2) Eligibility.

(a) Work Week Group 2 and Work Week Group SE. Excluded employees in WWG 2 and WWG SE are eligible for on-call/standby compensation if they are affiliated with a BU that has provisions for this

compensation. The same conditions, restrictions, and definitions that apply to represented employees in that unit apply to excluded employees affiliated with that unit.

NOTE: Sergeants in a two-sergeant or three-sergeant command utilize “on-call” rather than standby. (Refer to Chapter 32, Pay Differentials, of this manual.)

(b) Work Week Group E Employees. Excluded employees in WWG E are not eligible for on-call/standby compensation.

(3) Compensation. Excluded employees who are eligible for compensation for on-call/standby hours shall be compensated in the same manner and rate of compensation that applies to the represented employees in the BU affiliated with the excluded employee’s classification. (Refer to Chapter 28, of this manual.)

b. Daylight Savings/Standard Time Change. No charge for time off is made for the one hour not worked by employees when Standard Time changes to Daylight Savings Time in March. Overtime is credited for the additional hour worked by employees when Daylight Savings Time reverts to Standard Time in November. (Refer to Chapter 28, of this manual.)

c. Patrol Augmentation. Overtime shall not be authorized to augment patrol strength to meet a continuing problem without prior authorization by the Commissioner. Deployment during a maximum enforcement period is not augmentation.

d. Funerals. Overtime credit for attendance at funerals when directed by the Commissioner may be allowed only to employees assigned to perform honorary functions such as departmental representative, honor guard, escort duty, or pallbearer. (Refer to Highway Patrol Manual 70.56, Flags, Funerals, and Special Services Manual.)

e. Rest Periods for Public Safety Dispatchers. Public Safety Dispatchers (PSD) should take rest periods as described in Chapter 23, Meal Periods, Rest Periods, Holidays, and Staggered and Flexible Work Hours, of this manual. However, in accordance with the BU 7 agreement, if operating needs cause the PSD to miss 2 of the rest periods in their entirety (at least 30 minutes), they shall be compensated for one-half hour at the rate of one and one-half times the hourly rate of pay. (Refer to Chapter 28, of this manual.)

f. Overtime Meal Allowance.

(1) In accordance with a settlement agreement between the Department and the California Statewide Law Enforcement Association (CSLEA), PSD, and Public Safety Operators (PSO) shall be paid an overtime meal allowance if:

- (a) A PSD/PSO is ordered to work overtime.
- (b) A command posts a Mandatory Overtime sign-up sheet.
- (c) A command asks for a last-minute volunteer to work overtime during a PSD's/PSO's work shift that would otherwise be mandatorily assigned if a PSD/PSO does not volunteer.
- (d) An overtime meal allowance of \$8 may be provided only when an employee is required to work two consecutive hours prior to or two consecutive hours after the regular work shift. To be eligible for an overtime meal allowance on a holiday or RDO, employees must work the total number of hours of their regular work shift and work either two consecutive hours prior to or two consecutive hours after the start or end of their regular work shift.

(2) This agreement between the Department and CSLEA does not negate the additional requirements contained in the BU 7 contract, Article 12.10–Overtime Meals. Employees will still be required to request a meal allowance reimbursement in order to receive the allowance.

g. Special Travel Allowance.

(1) With certain exceptions, an excluded employee traveling on official state business may be eligible for a special travel allowance if:

- (a) The employee is in WWG 2;
- (b) The trip includes an overnight stay;
- (c) The employee is a passenger, not a driver;
- (d) The employee is traveling outside the employee's normal work hours;
and
- (e) The employee is not performing work activities while traveling in the vehicle.

(2) Employees are **not** eligible for the special travel allowance in the following four situations:

(a) When a WWG 2 employee travels on a one-day assignment to another city, travel time is considered compensable time. The employee's normal and customary commute time and midday meal period is deducted from the total compensable time.

(b) Employees who choose to voluntarily travel outside their normal work hours, for personal reasons, are not compensated for the travel time incurred outside their normal work hours.

(c) Employees who are driving a vehicle on official state business are considered working and are to be compensated consistent with FLSA for purposes of overtime.

(d) Employees who are passengers in a vehicle and are performing some work function, such as completing paperwork, while on official travel status, are considered working and shall be compensated consistent with FLSA.

(3) The special travel allowance should be paid as follows:

(a) The allowance shall be equivalent to the employee's regular hourly rate on a straight time, hour-for-hour basis for each hour spent traveling outside normal work hours.

(b) The allowance shall be paid in cash or CTO.

(c) The allowance shall be paid or credited in 15-minute increments.

(d) Only actual travel time counts toward this allowance. Time spent at the out-of-town work location or in temporary accommodations does not count towards the allowance.

(e) This special travel allowance for WWG 2 employees is **not** overtime compensation and shall not be considered as time worked for the calculation of overtime.

Example: An excluded employee in WWG 2 has a normal work day of 0800 hours to 1700 hours. The employee concludes work on an overnight business trip at an out-of-town location at 1800 hours and has a 1-hour 40-minute return trip to CHP Headquarters as a passenger. The employee completed office paperwork for the first hour of the return trip but does no work during the final 40 minutes of the trip.

In this example, the work time from 1700 hours to 1800 hours is compensable work time under the FLSA. The first hour of travel (from

1700 hours to 1800 hours), when the employee was completing paperwork, is also compensable work time under the FLSA. In addition, the employee would receive the special travel allowance equal to 45 minutes (three 15-minute increments) of CTO, or the cash equivalent, for the last 40 minutes of the return trip when no work was done.

(f) When feasible and reasonable, the Department should allow excluded employees who are required to travel on state business to travel during the employees' normal work hours. To decide whether travel during work hours is feasible and reasonable, the Department should consider business operations, including the costs of alternative travel arrangements.