

MARYLAND-NATIONAL CAPITAL PARK & PLANNING COMMISSION

**Overtime to Exempt Employees
Report Number: CW-004-2022**

May 17, 2022

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**Maryland-National Capital Park and Planning Commission
Overtime to Exempt Employees**

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I. EXECUTIVE SUMMARY

A. Background

Per the Maryland-National Capital Park and Planning Commission’s (M-NCPPC or Commission) *Merit System Rules and Regulations* (MSR&R)¹, employees who are identified by the Fair Labor Standards Act as non-exempt shall receive overtime compensation in the form of overtime pay or compensatory leave. This overtime compensation shall be at a rate of one and one-half (1½) times the regularly assigned hourly rate for each authorized hour of overtime beyond the fortieth (40th) hour in a workweek. The employee may request the specific form of overtime compensation; however, it is subject to Department Head approval based on the availability of funding and work program considerations.

Exempt employees, including Park Police Lieutenants, assigned to the Merit System Pay Schedules at Grades I, 28 (or their equivalency) and below may be approved for compensatory leave at a rate of one (1) hour of leave for each hour of authorized overtime worked. In exceptional cases, a Department Head may grant overtime pay at a rate of either straight time, or time at one and one-half (1½), dependent upon work program needs and availability of funds².

Exempt positions, including Park Police Captains, assigned to the Merit System Pay Schedules at Grades J, 30 and 32 (or their equivalency) may be authorized for Compensatory Leave at a rate of one (1) hour of leave for each hour of authorized overtime. These positions are not eligible for overtime pay³.

Employees who are assigned to the Merit System Pay Schedules at Grades K and 34 (or their equivalency) and above, including Park Police Commanders, are not eligible for overtime compensation in the form of overtime pay. In exceptional cases, Compensatory Leave at a rate of one (1) hour of leave for each hour of overtime worked may be granted only with Department Head approval⁴.

Merit Rules Summary:

Grade/Employee Type	OT Eligible	Compensatory Time Eligible	Comments
Non-Exempt Employees	Yes. 1.5x rate of pay	Yes	
Exempt Employees Grades I/28 or below	No	Yes, but at 1.0x	<u>Exceptional cases</u> , approved by Department Head, employee may

¹ MSR&R – Section 1262

² MSR&R – Section 1263.1

³ MSR&R – Section 1263.2

⁴ MSR&R – Section 1263.3

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			receive OT (1x or 1.5x) or Compensatory Leave at 1.5x
Exempt Employees Grades J/30-32	No	Yes, but at 1.0x	
Exempt Employees Grades K/34	No.	No.	<u>Exceptional cases</u> , approved by Department Head, employee may receive Compensatory Leave at 1.0x

As a result of the Maryland-National Capital Park Police, Montgomery County Division, Overtime Audit Report #MC-004-2019 dated June 30, 2019, the Park Police Chiefs issued a joint memorandum on August 28, 2019, confirming lieutenants would no longer be approved for overtime pay at any rate for assignments that are not considered exceptional. A copy of the joint memorandum is included in this report as **Exhibit A**. Per the memorandum, due to the nature of public safety work, what is considered exceptional can change depending on various factors. Therefore, the following guidelines were identified by both Park Police Chiefs to assess when an overtime assignment is deemed exceptional based on the totality of circumstances:

- Manmade or Natural Disasters
- Large Scale Event that requires executive oversight
- Emergency Callback (i.e., crime scene investigation, search for critically missing person, etc.)
- Non-Routine Public Safety Assignments in which there were not enough volunteer bargaining unit members to fill all critical slots (i.e., Presidential escort/executive protection details)

B. Definitions

Fraternal Order of Police (FOP) Collective Bargaining Agreement (CBA) – The current CBA was affected February 1, 2020, and expires January 31, 2023. The CBA includes the specifications of the parties' agreement with respect to wages, hours, and other terms and conditions of employment.

KRONOS – Kronos is the Commission's electronic timekeeping application. All sworn officers and civilian personnel record their time worked, including overtime (OT) hours in Kronos. Timecards are typically approved by the officer's supervisor.

Merit System Rules and Regulations (MSR&R) – The MSR&R were recommended by the Merit System Board and adopted by the Commission pursuant to Article 28, Annotated Code of Maryland. They establish policies for employment, including classification and compensation plans for Commission employees not covered by a CBA.

Officers – Park Police personnel with a rank of Sergeant or below are considered Officers. Officers are covered by the FOP Collective Bargaining Agreement. Most Officers work four (4) 10-hour shifts. There are three (3) shifts: days (7 a.m.–5 p.m.); evenings (4 p.m.–2 a.m.); and midnight (9 p.m.–7 a.m.) A shift premium is paid for hours worked during the evening and midnight shifts.

Park Police Command Staff

Officers with a rank of Lieutenant (Lt.), Captain, and Chief are considered Command Staff. Command Staff typically work five (5) eight-hour (8) shifts. Command Staff are not covered by the Fraternal Order of Police (FOP) Collective Bargaining Agreement. Command Staff are covered by the Commission's Merit System Rules and Regulations.

Sworn Officers – All Command Staff and Officers.

C. Objective, Scope, Methodology and Risk Analysis of the Audit

Objective

This audit has two (2) primary objectives:

1. Analyze overtime payments to ensure compliance with CBA and MSR&R as they relate to requesting, approving, and monitoring overtime to exempt employees.
2. Analyze data trends to identify possible fraud, waste, and abuse.

Scope

The scope of our audit included, but was not limited to, the following audit procedures:

- Reviewed applicable Commission practices and procedures.
- Obtained payroll data, to include regular hours, OT hours, compensatory time, and holiday hours for analysis.
- Tested a judgmental sample of employee timecards to ensure hours were recorded and approved per Commission requirements (e.g., CBA and MSR&R).
- Reviewed internal procedures for the request, approval and monitoring of OT work.

The audit period covers July 1, 2020 – June 30, 2021 (FY21).

Methodology

The audit was conducted in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Audit Risk Analysis

The Office of the Inspector General completed a comprehensive risk assessment in the Spring of 2021. As part of this assessment, 24 auditable processes or units were identified by Commission management. The OIG considered inherent risks (see below) for each auditable unit and assigned risk factors to each. As a result of the analysis, Overtime to Exempt Employees was ranked 10th out of 24 and was subsequently included on the OIG's FY22 Audit Plan, approved by the Audit Committee.

Inherent Risk Factors (before internal controls)

- Increased cost to the Commission due to violation of the MSR&R involving the payment and approval of OT to exempt employees
- Incorrect payment of wages due to fraud
- Inconsistent approval of OT requests, resulting in increased costs to the Commission
- Excessive individual OT, resulting in diminished capacity
- Unsupported personnel decisions due to lack of data
- Public perception – external/off-site OT

D. Major Audit Concerns


The results of our evaluation and testing procedures indicated no major audit concerns.

E. Overall Conclusions

The results of our evaluation and testing procedures indicate deficiencies in the design or operation of internal controls for approving over time for exempt employees. See the definition below.

We believe all weaknesses identified and communicated are correctable and that management's responses to all recommendations satisfactorily address the concerns. It is the responsibility of management to weigh possible additional costs of implementing our recommendations in terms of benefits to be derived and the relative risks involved.

We wish to express our appreciation to Commission Departmental management and staff for their cooperation and courtesies extended during the course of our review.



Natalie M. Beckwith, CIG, CFE
Assistant Inspector General



Renee M. Kenney, CIG, CPA, CIA, CISA
Inspector General

May 17, 2022

Conclusion Definitions

Satisfactory	No major weaknesses were identified in the design or operation of internal control procedures.
Deficiency	A deficiency in the design or operation of an internal control procedure(s) that could adversely affect an operating unit's ability to safeguard assets, comply with laws and regulations, and ensure transactions are properly executed and recorded on a timely basis.
Significant Deficiency	A deficiency in the design or operation of an internal control procedure(s) which adversely affects an operating unit's ability to safeguard assets, comply with laws and regulations, and ensure transactions are properly executed and reported. This deficiency is less severe than a material weakness, yet important enough to merit attention by management.
Material Weakness	A deficiency in the design or operation of an internal control procedure(s) which may result in a material misstatement of the Commission's financial statements or material impact to the Commission.

II. DETAILED COMMENTARY AND RECOMMENDATIONS

1. Ensure Overtime is Properly Approved

Issue: Overtime is not consistently approved by the Department Head. During the course of the audit the OIG reviewed 108 timecards of exempt employees who received overtime pay under the period of review. Aggregate overtime hours charged and paid out totaled 541.50 (hours worked) and \$31,419.89 (amount paid) respectively.

Although overtime was approved by a manager in KRONOS, no Department Head approval was noted for any of the items tested.

Criteria/Risk:

- Per the Maryland-National Capital Park and Planning Commission's *Merit System Rules and Regulations*:
 - Section 1263.1
 - Exempt employees, including Park Police Lieutenants, assigned to the Merit System Pay Schedules at Grades I, 28 (or their equivalency) and below may be approved for Compensatory Leave at a rate of one (1) hour of leave for each hour of authorized overtime worked. In exceptional cases, a Department Head may grant overtime pay at a rate of either straight time, or time at one and one-half (1½), dependent upon work program needs and availability of funds.
 - Section 1263.3
 - Employees who are assigned to the Merit System Pay Schedules at Grades K and 34 (or their equivalency) and above, including Park Police Commanders, are not eligible for overtime compensation in the form of overtime pay. In exceptional cases, Compensatory Leave at a rate of one (1) hour of leave for each hour of overtime worked may be granted only with Department Head approval.
- Per Maryland-National Capital Park Police Memo
 - Exempt employees assigned to the Merit System Pay Schedules at Grades I (Lieutenant) or below may be approved for Compensatory Leave at a rate of one (1) hour of leave for each hour of authorized overtime worked. In exceptional cases, a Department Head may grant overtime pay at a rate of either straight time, or time at one and one-half (1½), dependent upon work program needs and availability of funds. Overtime

compensation may be considered only for authorized hours beyond 80 in a pay period that cannot otherwise be flexed.

Proper review and approval of timecards strengthens managerial oversight and reduces opportunities for fraud, waste, or abuse.

Recommendation: We recommend Commission management ensure all timecards for exempt employees that receive overtime are approved by a Department Head.

Further, in instances where Department Head approval is not practical, the OIG recommends that management consider policy enhancements that promotes proficiency of operations without circumventing the approval process.

Issue Risk: High

Management Response:

As agreed upon by both Montgomery County Department of Parks and Prince George's County Department of Parks and Recreation:

- A Notice of Delegation of Signature Authority for timekeeping approval has been/will be signed by the Department Head and filed with the Commission's Director of Human Resources and Acting Corporate Policy & Management Operations Director. Also included with this notice was a request for the relevant sections of the MSR&R to be revised to reflect the Department Head's delegation of signature authority. These proposed revisions are included with the delegation notice.
- In order to provide better oversight of overtime and compensatory time earned, management worked with the team at the Commission that programs reports in the Infor Lawson Business Intelligence section in our ERP system to provide a "Overtime and Comp Earned PPE & YTD" report available on the Division Chief Dashboard. This report allows Division Chiefs to review, analyze and question the approved overtime and compensatory time earned by employees and approved at multiple levels of Division Management by each pay period ending with accumulated fiscal year-to-date totals. Since this data comes out of the ERP system, it was unaffected by our recent Kronos timekeeping system outage. This report has been available to Division Chiefs within Montgomery County for some time. They will be sent a reminder that this is available for them to provide needed oversight.

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- We are confident that the delegation of signature authority for timekeeping approval, the revisions to Sections 1260-1263, 1265, 1480 and 1481 of the MSR&R, and the regular review by Division Chiefs of the Overtime and Comp Earned PPE & YTD report will resolve your finding in the Audit, and provide another level of oversight by the Division Chiefs on an ongoing basis.

Expected Completion Date:

- Montgomery County: Completed
- Prince George's County: June 2022

Note: The above expected completion dates apply to Park Policy administrative actions. Enhancements to MSR&R as requested by Park Police to be determined.

Follow-Up Date: October 2022

EXHIBIT A
M-NCPPC Prince George's County Park Police Memo



Maryland-National Capital
Park Police
Prince George's County Division
8100 Corporate Drive • Hyattsville, MD 20785-2231
(301) 459-9088 Fax (301) 459-8336



August 28, 2019

MEMORANDUM

TO: All Park Police Lieutenants

FROM: Chief Stanley R. Johnson – Prince George's Division
Chief Darryl W. McSwain – Montgomery County Division

SUBJECT: Overtime Compensation

The purpose of this memorandum is to inform all Park Police Lieutenants of upcoming changes to current overtime compensation procedures. Under the M-NCPPC Merit System Rules and Regulations, the rank of Lieutenant is classified as Grade I. Those within Grade I (or its equivalency) are identified as "exempt" from the Fair Labor Standards Act. As such, there are differences in eligibility for overtime pay compensation when compared to "non-exempt" employees such as those at the rank of sergeant and below.

Exempt employees assigned to the Merit System Pay Schedules at Grades I (Lieutenant) or below may be approved for Compensatory Leave at a rate of one (1) hour of leave for each hour of authorized overtime worked. In exceptional cases, a Department Head may grant overtime pay at a rate of either straight time, or time at one and one-half (1½), dependent upon work program needs and availability of funds. Overtime compensation may be considered only for authorized hours beyond 80 in a pay period that cannot otherwise be flexed.

The current practice of granting overtime pay to lieutenants for daily-programmed assignments is deemed inappropriate and not supported by the provisions of the M-NCPPC Merit System Rules and Regulations. Therefore, effective September 9, 2019, lieutenants will no longer be approved for overtime pay at any rate for assignments that are not considered exceptional. Due to the nature of public safety work, what is considered exceptional can change depending on various factors. Therefore, the following guidelines will be utilized to assess when an overtime assignment is deemed exceptional based on the totality of circumstances:

- Manmade or Natural Disasters
- Large Scale Event that requires executive oversight
- Emergency Callback (i.e. crime scene investigation, search for critically missing person, etc.)
- Non-Routine Public Safety Assignments in which there were not enough volunteer bargaining unit members to fill all critical slots (i.e. Presidential escort/executive protection details)

CC: William Spencer
William Dickerson
Renee Kenney

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