

Flexing Overtime

by
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It has recently come to PLEA's attention through a variety of sources that supervisors in several work units are requiring, "suggesting" or asking employees who work overtime to flex out their OT hours in lieu of pay.

If this is occurring with you or someone you know, call the PLEA office immediately. This practice is prohibited and the city is **required** to pay you for any overtime hours worked. In the section of the MOU dealing with overtime compensation; section 3-2, subsection C. states that ***"Overtime work will be compensated in either cash or compensation time at one and a half (1-1/2) times the regular rate of pay after the first seven (7) minutes assigned and worked beyond the end of the unit members regularly scheduled shift calculated to the nearest 1/4 hour."***

Can a supervisor mandate that you hold overtime as compensatory time in lieu of taking pay? The answer is no. There are no provisions in the MOU or Operations Orders that give a supervisor the authority to do this. In reality it really doesn't matter. If you elect to have your overtime paid you will be paid at time and a half and if you elect to hold your overtime as comp time, it will be put into your bank at a time and a half rate. Regardless of how you do it the choice is ultimately yours.

Keep in mind that compensation time is not the same as "flexing" time. Nowhere in the MOU is the issue of "flexing" overtime addressed. The only mention made in the Department's Operations Orders with regard to "flexing" of overtime is when a person who is on industrial is required to attend medical appointments on their day off. Per policy an officer in this situation is required to flex their time at a 1:1 ratio in lieu of receiving overtime compensation.

While it is no secret that the city is in a budget crunch and no doubt, orders have come down to curtail overtime as much as possible, this often leads lower level supervisors to act in a broad, overreaching and a potentially illegal manner.

One officer recently reported to PLEA that his supervisor had been directing him to flex out overtime for the last year and in many instances at a 1:1 ratio. Not only is this a direct violation of the MOU it is also a violation of the Fair Labor Standards Act (FLSA).

Consider this scenario: a junior officer attends an hour long CSO training class on his day off. On his return to work, his Sgt. tells him that he will "flex" the time out and let him go home an hour early at the end of shift that evening. The junior officer not knowing any better, thinks the boss is a swell guy and doesn't realize he is getting screwed out of 3.5 hours of time owed him. Going to training on your day off = 3 hours minimum of overtime. When held as comp time or paid as overtime it must be compensated per the MOU at time and a half. 3 hours of overtime = 4.5 hrs of pay or time in your comp bank. Even though the supervisor in this case is completely

wrong to even suggest the flexing of time, he should have, at a minimum, allowed the officer to go home 4.5 hours early in order to ensure he was fairly compensated per the MOU.

Situations like these happen for a variety of reasons. Here are just a few: Supervisors are often ignorant of the rules. Supervisors who know better or should know better sometimes violate the rules in order to keep their superiors happy. Officers, especially the more junior amongst us aren't mindful of the rules. Many officers who may be aware they are being taken advantage of simply don't want to rock the boat for fear of retaliation.

I'm sure there are some officers who probably like the idea of "flexing" time. For those who like the concept I've got great news for you, we already have a "flex time" system in place. It's called a comp time bank. "Flexing" time can be a great thing for those who happen to work for a supervisor who is just an all around swell guy who does everything in a fair manner and who may even give you a little more time than you have coming when it comes time to "flex" those OT hours out. The problem arises when you have a supervisor who thinks that every penny of overtime you make is coming out of their personal checking account. This is when the personal whims of a supervisor come in to play and officers often lose out. There is no formal system in place to track "flex time" and one would have to hope that they and their supervisor could agree on how much time is owed. That's the beauty of the comp time bank, everything is tracked going in and coming out. It's fair and equitable and everybody gets what they have coming to them.

For those supervisors who feel that it's within their realm of power to deviate from the MOU with regard to pay, benefits, work conditions, and officer's rights, this is a contract violation known as direct dealing. In essence the supervisor has taken it upon themselves to negotiate with an officer or officers as the case may be outside the bounds of the contract that was agreed upon between PLEA and City management. This practice is strictly prohibited regardless of whether it happens to benefit you or not.