



WHD-OL-1993-0006

June 29, 1993

Name*

This is in response to your inquiry concerning the application of the overtime compensation requirements of the Fair Labor Standards Act (FLSA). The issue of concern is whether the FLSA prevents _____ from paying its police officers overtime premiums for hours worked in excess of their regularly scheduled hours, that are not statutory overtime hours under the FLSA.

You state that the city has elected, pursuant to §7(k), a 14-day work period for police officers for which the maximum standard is 86 hours under the FLSA. The officers are assigned to work either schedules of 76 hours (8 days @ 9.5 hours), or 85.5 hours (9 days @ 9.5 hours) in every 14-day work period. Instead of paying straight-time for hours between 76 and 86 (or 85.5 and 86), the City proposes to pay an overtime premium rate for the hours worked in excess of scheduled hours that are not in excess of 86 hours.

As a general rule, the FLSA does not prevent an employer from paying compensation in excess of its standards. We have concluded that overtime premiums paid as you propose may be treated as both excludable from the FLSA "regular rate" and creditable toward any FLSA overtime that may be due.

We trust that the above is responsive to your inquiry.

Sincerely,

Charles E. Pugh
Acting Administrator

*Note: The actual name(s) was removed to protect privacy in accordance with 5 U.S.C. § 552(b)(7).