



CBP Officer Overtime

November 14, 2017

Fiscal Year 2017 Report to Congress



Homeland
Security

U.S. Customs and Border Protection

Message from the Acting Deputy Commissioner of CBP

November 14, 2017

I am pleased to submit the following report, “CBP Officer Overtime,” which has been prepared by U.S. Customs and Border Protection (CBP).

This report was compiled pursuant to the language set forth in House Report 114-668, which accompanies the Fiscal Year 2017 Department of Homeland Security Appropriations Act (P.L. 115-31). The report provides the methodology for allocating CBP officer overtime resources, as well as funding levels for 2014–2016. Overtime caps and the process for determining official hours of operation also are addressed. The Office of Field Operations Customs Officer Pay Reform Act (COPRA) overtime system is rooted in law (19 U.S.C. § 267) and provides for CBP officers to be paid at two times their basic hourly rate for work in excess of 8 hours.



Pursuant to congressional requirements, this report is being provided to the following Members of Congress:

The Honorable John R. Carter
Chairman, House Appropriations Subcommittee on Homeland Security

The Honorable Lucille Roybal-Allard
Ranking Member, House Appropriations Subcommittee on Homeland Security

The Honorable John Boozman
Chairman, Senate Appropriations Subcommittee on Homeland Security

The Honorable Jon Tester
Ranking Member, Senate Appropriations Subcommittee on Homeland Security

I would be pleased to respond to any questions you may have. Please do not hesitate to contact my office at (202) 344-2001 or the Department’s Acting Chief Financial Officer, Stacy Marcott, at (202) 447-5751.

Sincerely,

A handwritten signature in black ink that reads "Ronald Vitiello".

Ronald D. Vitiello
Acting Deputy Commissioner
U.S. Customs and Border Protection

Executive Summary

This report addresses the methodology for allocating officer overtime resources. Maximizing employee resources provides the agency with greater flexibility to ensure that there are enough frontline personnel assigned to address peak travel times and increased workload and that ports of entry (POE) have the appropriate number of personnel to maintain CBP's core mission of antiterrorism and border security.

This report provides the funding levels for COPRA overtime for FY 2014, 2015, and 2016; the number of officers who reached the overtime cap in those years; and the process for determining and changing official hours at POEs.



FY 2017 CBP Officer Overtime Report

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I. Legislative Language

This document was compiled pursuant to the legislative language set forth in House Report 114-668, which accompanies the Fiscal Year 2017 Department of Homeland Security Appropriations Act (P.L. 115-31).

The House Report 114-668 states:

Within 180 days of the date of enactment of this Act, CBP shall report to the Committee on the following for all ports of entry: the methodology for allocating officer overtime resources; the overtime funding levels for fiscal years 2014, 2015, and 2016 at the national, field office, and port of entry levels; the number of officers who received overtime pay in those years; and the number that reached overtime caps in those years, at the national, field office, and port of entry levels. The report should also address the process for determining official hours of operation at a port of entry, and any process for changing the allocation of overtime hours to accommodate airport and airline schedules.

II. Background

U.S. Customs and Border Protection's (CBP) Customs Officer Pay Reform Act (COPRA) overtime system is rooted in law (19 U.S.C. § 267) and provides for CBP officers to be paid at two times their basic hourly rate for work in excess of 8 hours per day.

At the ports of entry (POE), CBP uses overtime to address core operational staffing requirements as well as surge requirements. Core overtime is used in two primary ways: (1) to address daily peak traffic periods and close potential gaps between shifts; and (2) to complete enforcement actions initiated during daily shifts. Surge overtime, in contrast, is used to provide surge capacity to address heightened enforcement operations; to address unanticipated traffic peaks; and to support threat or incident response operations, including mobile response team deployments and national special security events.

COPRA overtime can be scheduled in 15-minute increments. The standard use of core overtime provides the ability to staff in precise increments, rather than in 8–10-hour blocks, and promotes efficient application of CBP's staffing resources at POEs. It is an important technique in optimizing resources.

COPRA provides flexibility to address emergent operational needs when management must consider such factors as:

- Maintaining minimum daily staffing levels to address regular and reoccurring workload for officers who are on leave, attending training, or are on temporary duty assignments;
- After-hours international flights or vessel arrivals requiring CBP processing for non-24-hour POEs;
- Increased passenger workload during peak seasons (traditionally in the summer);
- Special operations addressing specific threats (terrorism and/or narcotic);
- Transportation for detainees to overnight facilities;
- Transportation to medical facilities and security of internal narcotics couriers; and
- Seizure and arrest processing.

COPRA provides employees with at least 2 hours in compensation when a CBP officer is called back to work as well as commuting time. This flexibility is critical to respond to unanticipated operational situations at POEs. COPRA also provides premium pay for night work differential, Sunday work, and holiday work providing the Office of Field Operations (OFO) with the ability to support necessary operations 24 hours per day, 7 days per week, and 365 days per year. For purposes of retirement calculations, COPRA overtime earnings count up to half of COPRA's statutory maximum on overtime pay, which aids in recruitment and retention of CBP officers.

CBP has a negotiated labor agreement with the National Treasury Employees Union. Implementation of a different overtime system would require bargaining with the National Treasury Employees Union on all matters not consistent with law, rule, or regulation.

From Headquarters, CBP assigns overtime plans at the field office level, and then field offices assign to POEs and adjust throughout the year. OFO does not centrally manage the overtime budgets at the POE level. Overtime budget data are drawn out of CBP's financial system.

III. Report Data

A. Methodology for Allocating Officer Overtime Resources

Prior to the beginning of each fiscal year, OFO leadership reviews options for the distribution of 200-percent overtime plans based upon the prior fiscal year for Headquarters and the field. These options factor in the field offices' historical use of and requests for overtime increases, as well as any operations or events that may be anticipated during the fiscal year. When assigning overtime, OFO also takes into consideration the results from the Workload Staffing Model, as well as current vacancies to assign overtime to meet those requirements.

Once OFO leadership approves the overtime plans, each Field Operations Director (DFO) is provided his or her specific financial plan within which he or she must operate for the entire fiscal year. These plans are disseminated prior to the beginning of the fiscal year in time for the field to adjust work schedules and assignments. DFOs have discretion in how they manage their resources on the basis of requirements and needs (i.e., wait times, enforcement operations, staffing, etc.). They may opt to provide each POE with a budget or manage all overtime at the field office level. The field office is expected to stay within its approved financial plan.

Nationally, CBP neither tracks nor plans overtime budgets to the POE level. OFO leadership develops and approves overtime plans to the field office level that the DFOs manage. This is done for multiple reasons. Because OFO operates all over the country and in foreign locations, planning and authority for specific plans is delegated to the authority who can make informed local decisions. Delegating this to a decisionmaker is critical so that the decisionmaker can adjust to changes in risk and volume in real time. As such, there is no central repository for specific POE overtime budget plans and CBP cannot provide POE-level information for this report.

In addition, OFO has implemented a process that allows the field to request additional overtime funding for situations warranting consideration such as a migration surge, natural disaster, or other event that may require the field office to exceed its financial plan. All requests for additional funding must be approved by the Executive Assistant Commissioner, OFO.

The overtime is tracked at the headquarters and field office levels by pay period, which enables OFO to identify current and historical spend rates, peak seasons, and anomalies, and to analyze future requirements accurately. It would take significant resources, including taking CBP officers off of frontline duties, in order to develop reporting for overtime at the POE level.

Each port director is required to monitor his or her individual overtime budget, if assigned to the POE level by the DFO, through the codes utilized in the agencywide cost management system. This cost-of-operations perspective provides CBP with the full costs for its activities and processes, and thereby provides a means to measure the effectiveness of operations. CBP is able to measure the cost of activities and services/products by assigning resource costs on the basis of consumption. It aggregates activities into the logical process flows that ultimately deliver a

product or service. CBP assigns the direct and indirect costs of an organization to the activities and products/services that consume the organization's resources. Finally, the system helps to meet several legislative and regulatory requirements including the President's Management Agenda, the Chief Financial Officers Act, and the Government Performance and Results Act.

Local POEs provide monthly overtime budget updates to their respective DFOs, who consolidate the reports for national review by OFO Headquarters.

Mission/Operational Process: Overtime is utilized to maximize employee resources, as well as for seizure/arrest processing that goes beyond a CBP officer's regular duty hours. Maximizing employee resources provides the agency with greater flexibility to ensure that there are enough frontline personnel assigned to address peak travel times and increased workloads; as well as to maintain the appropriate number of personnel to maintain CBP's core mission of antiterrorism and border security.

The following depicts how OFO currently assigns overtime:

- Maintaining minimum daily staffing levels to address regular and reoccurring workload for officers who are on leave, attending training, or are temporary detail;
- After-hours international flights or vessel arrivals requiring CBP processing for non-24-hour POEs;
- Increased passenger workload during peak seasons (traditionally in the summer);
- Special operations addressing specific threats (terrorism and/or narcotic);
- Transportation for detainees to overnight facilities;
- Transportation to medical facilities and security of internal narcotics couriers; and
- Seizure and arrest processing.

Local Tracking: Local management tracks overtime in the following manner:

Local assignment sheets may be used as additional documentation for overtime assignments. These can include formal shift reports or any informal daily, weekly, or biweekly assignment schedules. (See Appendix B for an example of a local assignment sheet.) When local assignment sheets are used, they must reflect daily changes to the schedule accurately. This is important not only for documenting overtime but for time-and-attendance processing. These reports will be used to analyze overtime usage in conjunction with workload and staffing statistics to ensure that:

- (1) Tours of duty are consistent with regular and recurring workload;
- (2) Tours of duty are adjusted to accommodate seasonal and other shifting patterns of work;
- (3) Work schedules are adjusted to preclude blanket overtime assignments and regular and recurring overtime assignments immediately prior to, or after, established tours of duty;
- (4) Work assignments are prorated to the maximum extent possible; and
- (5) Staffing on Sundays and holidays is not greater than the rest of the week unless the workload justifies the increase.

B. Overtime Funding Levels for FYs 2014, 2015, and 2016 at the National and Field Office Levels

Below are the base funding levels, as well as adjustments made throughout the year for FY 2014–FY 2016.

OFFICE	FY 2014 Overtime Plans		
	BASE PLAN	ADD. FUNDS PROVIDED	TOTAL ANNUAL PLAN
OFO-HQ	\$ 2,403,373	\$ 1,327,313	\$ 3,730,686
Atlanta	\$ 3,620,092	\$ 156,287	\$ 3,776,379
Baltimore	\$ 4,799,646	\$ 720,818	\$ 5,520,464
Boston	\$ 5,659,034	\$ 2,335,721	\$ 7,994,755
Buffalo	\$ 7,425,534	\$ 2,299,380	\$ 9,724,914
Chicago	\$ 6,530,129	\$ 1,671,380	\$ 8,201,509
Detroit	\$ 5,304,252	\$ 2,057,089	\$ 7,361,341
El Paso	\$ 16,501,647	\$ 1,527,255	\$ 18,028,902
Houston	\$ 5,709,362	\$ 1,218,240	\$ 6,927,602
Laredo	\$ 25,687,164	\$ 3,728,259	\$ 29,415,423
Los Angeles	\$ 15,215,828	\$ 1,940,406	\$ 17,156,234
Miami	\$ 18,174,547	\$ 1,251,537	\$ 19,426,084
New Orleans	\$ 999,475	\$ 1,207	\$ 1,000,682
New York	\$ 26,538,695	\$ 4,637,033	\$ 31,175,728
Portland	\$ 1,804,982	\$ 193,075	\$ 1,998,057
Preclearance	\$ 5,953,369	\$ 1,297,000	\$ 7,250,369
Puerto Rico	\$ 3,421,170	\$ 600,000	\$ 4,021,170
San Diego	\$ 29,864,646	\$ 5,124,712	\$ 34,989,358
San Francisco	\$ 7,338,396	\$ 647,263	\$ 7,985,659
Seattle	\$ 12,976,276	\$ 1,241,340	\$ 14,217,616
Tampa	\$ 2,634,918	\$ 485,533	\$ 3,120,451
Tucson	\$ 12,316,849	\$ 2,105,680	\$ 14,422,529
Virgin Islands	\$ 660,781	\$ 1,502,136	\$ 2,162,917
	\$ 221,540,165	\$ 38,068,664	\$ 259,608,829
Reserve	\$ 5,595,831		
TOTAL	\$ 227,135,996	\$ 38,068,664	\$ 259,608,829

Table 2

FY 2015 Overtime Plans

OFFICE	BASE PLAN	ADD. FUNDS PROVIDED	TOTAL ANNUAL PLAN
OFO-HQ	\$ 2,545,876	\$ 2,177,103	\$ 4,722,979
Atlanta	\$ 3,940,059	\$ 151,147	\$ 4,091,206
Baltimore	\$ 5,258,667	\$ 967,680	\$ 6,226,347
Boston	\$ 6,097,740	\$ 2,290,866	\$ 8,388,606
Buffalo	\$ 9,108,558	\$ 1,324,106	\$ 10,432,664
Chicago	\$ 7,466,562	\$ 1,319,444	\$ 8,786,006
Detroit	\$ 7,123,175	\$ 1,565,264	\$ 8,688,439
El Paso	\$ 17,486,943	\$ 1,845,719	\$ 19,332,662
Houston	\$ 6,212,168	\$ 1,676,551	\$ 7,888,719
Laredo	\$ 30,024,500	\$ 5,281,958	\$ 35,306,458
Los Angeles	\$ 17,252,446	\$ 2,274,829	\$ 19,527,275
Miami	\$ 20,576,842	\$ 1,568,813	\$ 22,145,655
New Orleans	\$ 1,299,127	\$ 25,661	\$ 1,324,788
New York	\$ 30,499,848	\$ 3,397,892	\$ 33,897,740
Portland	\$ 2,043,688	\$ 288,807	\$ 2,332,495
Preclearance	\$ 6,470,182	\$ 1,959,010	\$ 8,429,192
Puerto Rico	\$ 3,644,987	\$ 620,928	\$ 4,265,915
San Diego	\$ 34,107,757	\$ 3,658,938	\$ 37,766,695
San Francisco	\$ 8,836,656	\$ 606,693	\$ 9,443,349
Seattle	\$ 15,322,704	\$ 1,286,487	\$ 16,609,191
Tampa	\$ 2,888,860	\$ 360,057	\$ 3,248,917
Tucson	\$ 14,262,048	\$ 2,413,943	\$ 16,675,991
Virgin Islands	\$ 2,346,780	\$ 811	\$ 2,347,591
	\$ 254,816,173	\$ 37,062,707	\$ 291,878,880
Reserve	\$ 5,595,831		
TOTAL	\$ 260,412,004	\$ 37,062,707	\$ 291,878,880

Table 3

FY 2016 Overtime Plans			
OFFICE	BASE PLAN	ADD. FUNDS PROVIDED	TOTAL ANNUAL PLAN
OFO-HQ	\$ 2,545,876	\$ 2,220,672	\$ 4,766,548
Atlanta	\$ 3,940,059	\$ 320,268	\$ 4,260,327
Baltimore	\$ 5,258,667	\$ 542,196	\$ 5,800,863
Boston	\$ 6,097,740	\$ 3,095,101	\$ 9,192,841
Buffalo	\$ 9,108,558	\$ 800,000	\$ 9,908,558
Chicago	\$ 7,466,562	\$ 1,504,402	\$ 8,970,964
Detroit	\$ 7,123,175	\$ 1,115,536	\$ 8,238,711
El Paso	\$ 17,823,032	\$ 3,000,056	\$ 20,823,088
Houston	\$ 6,700,384	\$ 1,385,670	\$ 8,086,054
Laredo	\$ 31,328,800	\$ 7,932,388	\$ 39,261,188
Los Angeles	\$ 17,252,446	\$ 3,854,816	\$ 21,107,262
Miami	\$ 22,132,978	\$ 3,016,277	\$ 25,149,255
New Orleans	\$ 1,299,127	\$ 100,982	\$ 1,400,109
New York	\$ 31,930,117	\$ 2,640,637	\$ 34,570,754
Portland	\$ 2,043,688	\$ 466,612	\$ 2,510,300
Preclearance	\$ 6,722,322	\$ 2,105,700	\$ 8,828,022
Puerto Rico	\$ 3,894,749	\$ 800,000	\$ 4,694,749
San Diego	\$ 36,131,249	\$ 1,312,049	\$ 37,443,298
San Francisco	\$ 8,836,656	\$ 1,055,295	\$ 9,891,951
Seattle	\$ 15,322,704	\$ 965,408	\$ 16,288,112
Tampa	\$ 2,888,860	\$ 995,700	\$ 3,884,560
Tucson	\$ 14,671,630	\$ 2,630,000	\$ 17,301,630
Virgin Islands	<u>\$ 2,346,780</u>	<u>\$ 115</u>	<u>\$ 2,346,895</u>
	\$ 262,866,159	\$ 41,859,880	\$ 304,726,039
Reserve	<u>\$ 5,595,831</u>		-
TOTAL	\$ 268,461,990	\$ 41,859,880	\$ 304,726,039

C. Officers Who Received Overtime Pay; Number that Reached Overtime Caps in those Years

Fiscal Year	CBP Officers in CBP	CBP Officers who Earned Overtime/ Premium Pay	Total Cap Waivers Approved*	Total Number of Employees who Reached the Cap
2014	22,213	21,373	1,110	713
2015	22,927	22,423	1,779	1,241
2016	22,900	22,401	2,088	1,381

**includes Agriculture Specialists*

	FY 2014	FY 2015	FY 2016
Field Office	Cap Waivers Approved	Cap Waivers Approved	Cap Waivers Approved
Boston	23	24	68
Buffalo	34	0	0
El Paso	117	368	220
Laredo	98	82	47
Miami	50	0	0
New York	250	505	296
San Diego	486	661	839
San Francisco	6	0	11
Toronto Preclearance	30	50	85
Tucson	16	52	266
Headquarters - National Targeting Center/Special Response Team	0	10	3
Houston	0	0	10
Los Angeles	0	0	243
Baltimore	0	27	0
Totals	1,110	1,779	2,088

D. The Process for Determining Official Hours of Operation at a POE, and Any Process for Changing the Allocation of Overtime Hours to Accommodate Airport and Airline Schedules.

CBP tries to accommodate changes in hours where possible, but because of bank scheduling¹ by airlines, the majority of needs fall during peak periods during the day, which makes it difficult to always meet outlier requests. CBP works with the airlines to accommodate as many requests as possible through the landing rights process. For those areas where CBP may not be able to accommodate an airline's request, CBP directs them to the Reimbursable Services Programs and Preclearance, where possible, as options to consider that can potentially help airlines meet their demands.

DFOs will use the following criteria as the basis for preparing requests to change hours of service at port facilities:

- Workload to include:
 - The unavoidability of weather, mechanical, and other delays;
 - The necessity for prompt and efficient passenger and baggage clearance;
 - The perishability of cargo;
 - The desirability or unavoidability of late night and early morning arrivals from various time zones;
 - The availability of personnel and resources; and
 - The need for specific enforcement checks.
- Operational costs;
- Proximity of other crossings; and
- Stakeholder requests.

Permanent Reductions: Field offices and area POEs will base reductions on empirical workload analyses of the operational day and the proposed hours of reduction. Analyses will determine, for the 2 previous fiscal years, the hours of proposed reductions, the percentage of vehicles for the year, the average number of vehicles entering per hour, the inspection cost per vehicle, and how many times more inspection costs are than the average for the entire operational day.

Crossings selected for reduced hours must have received, during both preceding fiscal years, no more than 4.0 vehicles per hour and have inspection costs of at least \$200 per vehicle, and the shift either must account for less than 10 percent of total vehicles for the year for the port or have a per-vehicle inspection cost that is at least five times greater than the average per vehicle inspection cost for the operational day. These criteria may be adjusted if the area port and/or field office has at least 5 percent fewer staff than authorized for the previous 2 fiscal years and is projected to remain understrength for at least 2 additional years.

¹ Bank Scheduling is when the airlines bring all of their flights in at relatively the same time and then they depart at relatively the same time. This is opposed to a steady stream of incoming flights throughout the day. Banking means that there are a lot of people who arrive at the same time in a couple of blocks throughout the day.

Permanent Expansions: Field offices and area POEs will base expansion on empirical workload analyses of the operational day for the 2 previous fiscal years. Analyses will determine whether operational hours at the beginning and/or end of the operational day have experienced significant workload growth.

For each hour of proposed expansion, the crossing must have 1 hour at the immediate beginning or end of the operational day whose vehicle workload has increased by 20 percent (i.e., to add 2 hours at the end of the operational day, the last 2 hours of the current operational day must have experienced 20-percent growth), the increase must be at least 30 vehicles per hour, and additional staff or overtime must be available to support expanded operating hours.

IV. Conclusion

COPRA overtime is rooted in law (19 U.S.C. § 267) and provides for CBP officers to be paid at two times their basic hourly rate for work in excess of 8 hours. COPRA provides for at least 2 hours in compensation when an officer is called back to work, as well as commuting time. This flexibility is critical to respond to unanticipated operational situations at POEs.

COPRA provides for premium pay for night work differential, Sunday work, and holiday work, providing OFO the ability to support necessary operations 24 hours per day, 7 days per week, and 365 days per year. COPRA overtime can be scheduled in 15-minute increments and, in many cases, is a cheaper alternative than assigning a full-time equivalent.

Maximizing employee resources provides the agency with greater flexibility to ensure that sufficient frontline personnel are assigned to address peak travel times and increased workloads, and to maintain the appropriate number of personnel to achieve CBP's core mission of antiterrorism and border security.

V. Appendices

Appendix A. List of Acronyms

Acronym	Definition
CBP	Customs and Border Protection
COPRA	Customs Officer Pay Reform Act
DFO	Director, Field Operations
OFO	CBP Office of Field Operations
POE	Port of Entry

