

## Applying section 207(k) to law enforcement employees

The Fair Labor Standards Act's (FLSA) 29 U.S.C. 207(k) partial-overtime exemption for law enforcement employees can sometimes be difficult to apply. Exempt workers still must be paid for their overtime work, but they typically must work more hours over a longer period of time before earning overtime pay.

Law enforcement or fire protection personnel may be paid overtime on a "work period" basis, which may be from seven consecutive days to 28 consecutive days in length. Law enforcement employees must receive overtime after 171 hours worked during a 28-day period, while fire protection employees must receive overtime after 212 hours worked during a 28-day period.

General guidelines for different types of law enforcement personnel are summarized below:

### Law Enforcement Officers

Only law enforcement officers working for public employers qualify for the exemption, such as police officers, sheriffs, deputy sheriffs, court and deputy court marshals, and constables and deputy constables. The law enforcement employee, regardless of probationary or permanent employee status, must:

- Be a uniformed or plain-clothes member of a body of officers and subordinates who is empowered by state statute or local ordinance to enforce laws designed to maintain public peace and order, protect life and property from accident or willful injury, and prevent and detect crimes.
- Have the power to make arrests.
- Have participated in a special course of instruction or study (or will undergo such courses or on-the-job

training) that typically includes self defense, physical training, firearm proficiency, criminal and civil law principles, investigative and law enforcement techniques, community relations, medical aid and ethics. In Colorado this means that the employee is POST (Peace Officer Standards and Training) certified.

It does not apply to workers who regularly engage in support services for a law enforcement agency.

### Corrections Officers

Most security personnel in correctional institutions in Colorado are considered "civilian" employees. Civilian employees are not security employees exempt under 207(k).

### Elected Officials

Law enforcement employees who serve as elected officials are not exempt because such employees are not covered by the FLSA.

### Employees Who Perform Multiple Jobs

Employees who work for a public agency that provides both law enforcement and fire protection services may be exempt. If the employee serves both roles, employers should calculate overtime pay based on whether the majority of the worker's time is spent on law enforcement or fire protection duties. They may be exempt, provided that more than 20 percent of the employee's time is not spent outside those duties prescribed in the 207 (k) exemption tests.

For more information, contact CTSI at 303-861-0507 or visit the Department of Labor's website at [www.dol.gov](http://www.dol.gov).

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