

JUL 29 1997

This is in response to your inquiry concerning the compensability of certain time spent by police officers in training classes. We regret the delay in responding to your inquiry.

Your questions will be addressed in the order presented. Our answers assume that the training occurs outside of duty hours, i.e., on the employee's own time. The fact that the employer may allow officers to attend some of the training during duty hours, i.e., "on the clock" does not, per se, control whether the training time during off-duty hours is compensable under the FLSA. The general rules applicable to training and related matters are found at 29 CFR §§ 785.27 - .32. Please note particularly the exceptions to the compensability of training time discussed in §§ 785.30 - .31. If the training at issue meets these latter criteria it is not necessary to further consider the issue.

Q.1. A patrol officer wants to attend a class in homicide investigation techniques. In this officer's police department, patrol officers do not investigate homicides; such investigations are handled by investigators assigned to the homicide unit. While the officer feels that the homicide training will be helpful with regard to job performance, the police department believes such training is not necessary to performance as a patrol officer. Accordingly, the police department will not pay for the course, but will give the officer some time off to attend class. Is the homicide investigation training taken during off-duty hours compensable under the FLSA?

A.1. No. As you know, all the criteria in §785.27 must be met in order to exclude the training time from "hours worked." Assuming that tests (a), (b) and (d) are met, only test (c) remains. Homicide investigation training is not necessary for patrol officers since

they do not investigate homicides; such function is the responsibility of investigators from the homicide unit. Thus, under the rule in §785.28, homicide training would appear to be for the purpose of advancement through upgrading the employee to a higher skill. (Presumably homicide investigators are in a higher ranked job commanding more pay than patrol officers). Although it may incidentally improve the officer's skill in investigating non-homicide cases, such training would not be considered directly related to the employee's job under test (c).

Q.2. Consider the same facts and assumptions as in Q.1. except (in another department) the patrol officer has the responsibility to perform the homicide investigation. Would the homicide training be compensable for the patrol officer?

A.2. Yes. The test in (c) would not be met because the training is directly related to the patrol officer's job responsibility. Therefore, homicide training for this patrol officer would be compensable.

Q.3. A police officer wants to attend a stress reduction class specifically designed for law enforcement personnel. The employing department is not willing to pay for the class or to have the officer attend while on duty, but will allow the officer some limited time off to travel to the class.

A.3. You have not provided sufficient information about the nature and purpose of the course for us to conclusively opine. However, if the stress training were to focus directly on police situations involving pursuit or apprehension of suspects, riot control, and similar highly charged intervention situations, the training would appear to be directly related to the patrol officer's job. On the other hand, stress training focusing strictly on maintaining personal health and fitness by focusing on preventative health care, diet, exercise, recreation, etc., would appear to be only indirectly related to employment situations encountered by police officers.

We trust that the above is responsive to your inquiry.

Sincerely,

Daniel F. Sweeney
Office of Enforcement Policy
Fair Labor Standards Team