

GAO

**Report to the Chairman, Committee on
Post Office and Civil Service, House of
Representatives**

June 1988

**FEDERAL
WORKFORCE**

**Overtime Pay
Practices of the
Federal Bureau of
Investigation**

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June 13, 1988

The Honorable William D. Ford
Chairman, Committee on
Post Office and Civil Service
House of Representatives

Dear Mr. Chairman:

This report responds to your request for information on the use of overtime pay at the Federal Bureau of Investigation (FBI). Specifically, you wanted information on the (1) amount of money spent on overtime pay over the last 10 years, including "administratively uncontrollable overtime" (AUO) paid to the FBI's Special Agents; (2) types and adequacy of records maintained to document overtime use; (3) possible use of overtime as a salary supplement; (4) extent overtime availability is discussed during recruiting activities; (5) results of any internal FBI investigations of falsified overtime records during the last 5 years; and (6) internal controls used by the FBI to ensure that overtime payments are appropriate.

Background

Generally, federal employees are expected to complete their assigned duties during regular working hours. On occasion, however, they may need to work overtime. Overtime compensation is usually based on an employee's hourly rate of pay, and is paid for work done in excess of 8 hours in a day or 40 hours in an administrative work week. Generally, overtime is allowed only when ordered or approved by an officer or employee to whom this authority has been specifically delegated. Statutes governing the payment of overtime compensation are contained in 5 U.S.C. 5541-5550a.¹

The law governing overtime, as stated in 5 U.S.C. 5545, also authorizes and establishes criteria for the head of an agency to provide overtime compensation for work qualifying as "administratively uncontrollable overtime" (AUO). The law allows such compensation for employees in positions which require substantial amounts of irregular, unscheduled overtime duty with the employee generally being responsible for recognizing, without supervision, the circumstances which require the employee to remain on duty. AUO is to be used in work situations where compelling reasons related to performance of the employee's duties arise that require the employee to remain on the job after normal working

¹Overtime is also payable under the Fair Labor Standards Act, 29 U.S.C. 201-219.

hours. The requirement to remain on duty must be of such a nature that failure to remain would constitute negligence by the employee.

The FBI authorizes AUO for all Special Agents on the basis that their hours of duty are not subject to administrative control, and that agents must do substantial amounts of irregular or occasional overtime work to satisfactorily discharge their duties. Special Agents are responsible for determining, without supervisory approval, when to remain on duty or return to duty, as required by circumstances. FBI regulations state that new Special Agents are ineligible for AUO during training, but they are automatically eligible for AUO after completing a 16-week training program.

The FBI believes that all of its Special Agents have duties that justify AUO payments. As of March 31, 1988, the FBI had 923 Special Agents assigned to its headquarters and 8,562 Special Agents assigned to field offices. An FBI official said that, within headquarters, 487 Special Agents are involved in supervisory non-investigative functions and 436 Special Agents are involved in investigative functions.

Results in Brief

Based on FBI data, the cost of overtime at the FBI increased from \$38.4 million in fiscal year 1978 to \$60.2 million in fiscal year 1987. All of the increase was for AUO payments to Special Agents. When adjusted for inflation, however, FBI overtime costs remained essentially the same, declining from \$61.2 million in 1978 to \$60.2 million in 1987.

Nearly all Special Agents, regardless of location or responsibilities, receive the maximum amount of AUO payments allowed by FBI regulations (about \$6,307 annually), meaning that they average over 9 hours of AUO each week. Because one of the basic requirements for AUO is that the employee must be responsible for recognizing the circumstances which will require the employee to remain on duty, the FBI relies on Special Agents' judgments as to whether and to what extent extra duty is required. To record hours worked, the FBI uses sign-in and sign-out registers, which are an acceptable method of documenting overtime hours. FBI officials said overtime is not used as a salary supplement; however, overtime requirements for Special Agent duties are explained along with AUO provisions to all Special Agent applicants prior to their entrance on duty.

The FBI provided records showing that, during the past 5 years, internal investigations have substantiated three cases of falsified overtime

records by FBI employees. The FBI uses overtime allocations and periodic audits to control and monitor overtime payments.

Objectives, Scope, and Methodology

To obtain the requested information, we interviewed FBI officials at the Bureau's Washington, D.C., headquarters; reviewed applicable legal and regulatory provisions governing overtime payments; and obtained data on the amounts of overtime paid by the FBI during fiscal years 1978 through 1987. We verified the reported overtime paid against the FBI's payroll ledgers and found no discrepancies. We also gathered information on the FBI's recruiting practices and reviewed internal investigative summaries and audit procedures used for reviewing FBI time and attendance practices. We did not assess the need for the overtime to be paid. We discussed this report with FBI officials, who agreed with the information presented. Our work was done between October 1987 and May 1988 in accordance with generally accepted government auditing standards.

The following sections contain the detailed information we obtained on each of your questions.

FBI Overtime Expenditures

In fiscal year 1987, the FBI's records show that it spent \$54.1 million on AUO payments to Special Agents and \$6.1 million on overtime payments to support personnel. FBI records also show that over the last 10 years AUO costs (in nominal dollars) have steadily increased, while overtime costs for support personnel have fluctuated considerably. On a constant dollar basis, AUO costs have fluctuated little, while overtime costs for support personnel have varied widely. Table 1 shows the FBI's reported annual overtime costs since fiscal year 1978. Table 2 adjusts the overtime costs to constant 1987 dollars.

Table 1: The FBI's Overtime Costs for Fiscal Years 1978 to 1987

Dollars in millions				
Fiscal year	AUO costs for Special Agents	Overtime costs for support personnel	Total	
1978	\$32.3	\$6.1	\$38.4	
1979	33.3	4.4	37.7	
1980	35.5	3.6	39.1	
1981	38.2	4.9	43.1	
1982	40.3	1.9	42.2	
1983	43.1	3.4	46.5	
1984	47.1	5.8	52.9	
1985	51.3	7.5	58.8	
1986	52.1	5.3	57.4	
1987	54.1	6.1	60.2	

Table 2: The FBI's Overtime Costs in Constant 1987 Dollars^a

Dollars in millions				
Fiscal year	AUO costs in constant dollars for Special Agents	Overtime costs in constant dollars for support personnel	Total	
1978	\$51.5	\$9.7	\$61.2	
1979	50.0	6.6	56.6	
1980	48.2	4.9	53.1	
1981	47.0	6.0	53.0	
1982	46.2	2.2	48.4	
1983	48.6	3.8	52.4	
1984	52.2	6.4	58.6	
1985	53.6	7.8	61.4	
1986	53.7	5.5	59.2	
1987	54.1	6.1	60.2	

^aNominal dollar expenditures for fiscal years 1978 to 1986 were adjusted using the United States Department of Commerce federal non-defense price index.

By law, the premium paid for each hour of regular overtime worked, as stated in 5 U.S.C. 5542, is generally limited to the lesser of one and one-half times the hourly rate of basic pay of the employee or one and one-half times the minimum hourly rate of basic pay for a GS-10. Overtime paid to support personnel at the FBI is determined in this manner.

AUO payments can be 10, 15, 20, or 25 percent of the lesser of the employee's basic pay or the minimum basic pay for GS-10 (which is the starting level of FBI Special Agents). The AUO percentage depends on the number of extra hours worked and, in general, is determined based on

the hours of irregular or occasional overtime work required in the past. Percentage rates of premium pay are determined in accordance with the following schedule:

Average weekly overtime hours	AUO percentage
3 to 5	10
over 5 to 7	15
over 7 to 9	20
over 9	25

The FBI determines a Special Agent's AUO percentage by averaging the amount of AUO worked over 12 pay periods. According to FBI payroll data, nearly all Special Agents receive the maximum AUO percentage rate. Exceptions to this include Special Agents earning in excess of the GS-15 step 10 salary rate (\$71,377) and those on limited duty.

Records Maintained to Document Overtime Use

FBI regulations require that Special Agents sign in and sign out on an attendance register, when coming on and going off duty, to document the actual hours worked. Likewise, FBI officials said support personnel are also required to account for all of their work time by signing in and out on an attendance register. According to FBI regulations, if FBI employees cannot sign in and out personally on the appropriate register, the Special Agent in Charge or a supervisory official may authorize other employees to sign in or out on their behalf.

FBI time and attendance clerks are responsible for extracting daily the arrival and departure times for FBI employees using the attendance registers. This information is transmitted biweekly to FBI headquarters to be used as the basis for calculating the payroll. The original timekeeping records for employees are maintained in the local FBI unit.

Use of Overtime Pay as a Salary Supplement

FBI officials told us that overtime pay is not provided as a salary supplement since it is based on hours actually worked. In responding to a congressional subcommittee's question about the need for AUO, the FBI said it believed all of its Special Agents, including supervisory Special Agents, have duties that justify AUO payments. The FBI said it believes that in order to successfully accomplish its mission it is necessary to authorize AUO for all Special Agents, wherever they are assigned.

What FBI Job Applicants Are Told About Overtime Pay

FBI officials said that job applicants seeking Special Agent positions are told of AUO provisions during pre-employment interviews. In a letter to a Member of Congress, the Director of the FBI acknowledged that AUO is perceived as an inducement to employment because it represents significant additional income.

FBI officials said overtime pay is generally not discussed during pre-employment interviews with job applicants seeking to fill support personnel positions. The FBI employment literature provided to job applicants says that all employees must be available for assignments that may require overtime, nighttime, or weekend duty.

Internal Investigations of False Overtime Claims

The FBI provided records showing that, during fiscal years 1983 through 1987, the FBI's Inspection Division investigated and substantiated three cases of false overtime claims by FBI employees. The investigations occurred because of allegations that these employees claimed overtime payments for periods of time they did not work. FBI investigative summaries showed the three employees were suspended from duty for 3 to 5 days and placed on probation with a warning that more serious administrative actions, including possible dismissal, would be taken for any future falsification of time and attendance records. One employee, in addition to being suspended, was demoted one grade level.

Internal Controls to Ensure Appropriateness of Overtime Payments

FBI procedures allow supervisors and managers to determine, within their allocation of overtime hours each pay period, when overtime for support personnel is necessary. FBI regulations require that any overtime work requiring more than two support personnel for more than a few hours or for more than 1 day receive advance approval from headquarters officials. In contrast, AUO is not subject to preapproval or other advance controls, and, therefore, the FBI relies on Special Agents' individual judgments as to whether and to what extent extra duty is required.

FBI officials said that overtime and AUO are audited as a part of their payroll system and time and attendance audits. The payroll system audits are done biennially, while the time and attendance audits range from once a year to every third year depending on the size of the unit being audited.

We noted certain weaknesses in the audit procedures used by the FBI in making payroll system and time and attendance audits, and we discussed possible changes with FBI officials. The audit procedures, which were being revised at the time of our review, needed improvement to ensure satisfactory audit coverage for AUO. For example, we suggested changes to improve

- field office audit sampling size methodology to provide statistically sound sample sizes rather than arbitrarily selecting a number of records for audit,
- time and attendance audits to more specifically cover AUO worked by Special Agents in field offices and headquarters, and
- time and attendance and payroll system audits by routinely reviewing AUO source documents (time and attendance records).

FBI officials concurred in our findings and later told us that the changes we suggested to improve the FBI's audit coverage of AUO had been made.

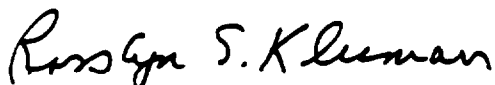
Conclusions

In our opinion, the use of sign-in and sign-out registers is an acceptable method of documenting overtime hours worked. Also, we believe that the actions taken by the FBI to strengthen its audit procedures, if properly implemented, should better ensure adequate coverage of AUO.

Because individual employees are responsible for determining whether and to what extent AUO work is necessary, it would not be feasible to institute a system of advance controls over such work. The FBI relies on the integrity of its Special Agents to ensure that their overtime hours are appropriate.

As requested by the Committee, we plan no further distribution of this report until 30 days after the date of issuance, unless you publicly announce its contents earlier. At that time, we will send it to interested parties and make copies available to others upon request.

Sincerely yours,



Rosslyn S. Kleeman
Senior Associate Director

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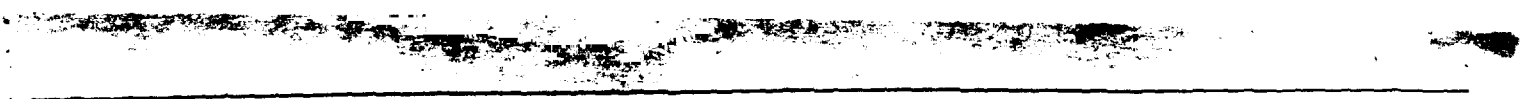
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