

**MINISTRY OF COMMUNITY SAFETY AND CORRECTIONAL SERVICES
PROVINCIAL OVERTIME PROTOCOL
May 1, 2008**

INTRODUCTION

At the present time, there are a variety of practices amongst institutions with respect to the distribution of overtime. In order to streamline the assortment of existing practices, the ministry and the union have developed this set of principles, which must be applied in the development of a local overtime distribution system.

As per the Collective Agreement (Article COR8), a local overtime distribution system must distribute overtime fairly and equitably after having ensured that all operational requirements are met.

PURPOSE

The Overtime Protocol has been developed with the intent to:

- distribute overtime opportunities in a fair, equitable and consistent manner,
- ensure the process is administratively and operationally feasible, and
- ensure the process is open and transparent.

GUIDING PRINCIPLES

The local worksite overtime protocol **must** be founded on the following principles:

A Fair and Equitable System

The underlying principle of a fair and equitable system is to attempt to equalize the opportunity for overtime hours over a specific and reasonable period of time. The goal is to distribute the overtime opportunities amongst all eligible employees fairly. The goal is not to ensure that all employees work the same number of hours, given that individual choice and circumstance may restrict actual overtime hours worked.

Compliance with the Ontario Human Rights Code

Overtime protocols must comply with the Ontario Human Rights Code, such that they contain provisions that ensure interested employees with disabilities are given opportunities to work overtime to the extent that their medical restrictions allow.

Transparency

The computerized overtime tracking system will guide the overtime hiring process according to the overtime protocol. Whenever the overtime protocol is not followed, a deviation report will be created including the reason for the deviation.

To ensure transparency, employees in the same bargaining category at the local level will have access to the following reports.

A daily overtime distribution report will include the following information.

- Employee Name
- Date and time of input
- Contact result
- Shift being hired
- Hours of the shift
- Total hours of overtime opportunity for the distribution period
- Name of hiring person

A daily deviation report, which will list every occurrence where the protocol was not followed and the reason for the deviation.

Decision to Hire Overtime

To the extent possible, overtime opportunities will only be offered once the non-overtime classified and non-overtime unclassified resources have been exhausted.

OVERTIME PROTOCOL

Once a decision is made to hire overtime, the following overtime procedures shall be followed:

1. Pursuant to section two (2) of the Provincial Overtime Protocol , individuals registering or modifying availability for the “Active Hiring Period” will be considered a late entry as defined below.

a) ACTIVE HIRING PERIOD

The period of time, defined as the current day plus three additional days hence. This is the period of time where hiring managers can make offers for overtime shifts.

b) LATE ENTRY

Late Entries includes overtime availability registered or any change of overtime availability for a day that falls within the Active Hiring Period.

2. a) Staff may add or remove themselves from the availability list for a given shift no later than (8) hours prior to the commencement of that shift. However, staff may not remove their availability for a given shift if an offer for that shift has been made.

b) For clarity, when staff make changes to their availability during the Active Hiring Period (as per point #1 above), the availability will become a LATE ENTRY.
3. It is the responsibility of each employee to provide the employer with a single current phone number where he/she can be contacted.
4. Overtime calls will be made on a sequential basis. The first person called will be the most senior person on the overtime list having the least number of overtime opportunity hours.
5. All overtime will accumulate over a consecutive four (4) calendar month period after which the oldest month's totals will be eliminated. For example, upon entering August, April's totals will be dropped and the accumulated totals will be based on May to August (Note: The Hiring Protocol computer program automatically performs this function).
6. The manager will allow the phone to ring no less than five (5) times before moving to the next employee on the list. If an employee has message capability, the manager will leave a message indicating that an overtime opportunity is available. If the manager is aware that an employee is at work when the overtime offer is made, the manager will page/notify the employee at work rather than calling the contact number.
7. Where the manager leaves a message or a page, there will be a five (5) minute "call-back" time allotted prior to moving to the next employee on the list. Overtime hours will be assigned to the employee(s) who responds first.
8. If another overtime opportunity arises that day, an employee will be called again. If the calls are at least two hours apart and no contact is made, the employee will not be called again for overtime, as part of the protocol, in that calendar day.
9. The manager will indicate the outcome of a phone call as one of the following:
 - Employee accepted
 - Employee declined
 - Message left
 - Telephone busy
 - No answer

10. Once a person has accepted or declined an overtime opportunity, no further overtime opportunities will be offered in that calendar day, under the protocol.
11. Overtime opportunities will be counted towards overtime distribution, whether the hours are worked or declined. For example, if an employee is offered a 12-hour overtime opportunity and declines the offer, he/she will be considered to have worked the hours for the purpose of overtime distribution subject to a maximum of 12 hours per day. However, all hours actually worked will be reflected in the "hours of opportunity total" (HOT) and are not subject to the 12-hour maximum for declined hours.
12. The employee being offered an overtime shift must either accept the entire shift or decline the opportunity and the total hours offered will be credited to the person. Offering to work a partial shift is not an option for the employee.
13. Where an overtime period is a shift extension of four hours or less such hours shall be subject to distribution as per the overtime protocol. However, staff must indicate their availability on the shift extension opportunity box on the computer. For clarity, and by definition, an extension of shift can be 4 hours or less prior to the commencement of a shift or four hours or less at the completion of a shift.
14. Where the employer is booking overtime in advance of the current calendar day, the hours offered will be entered on the day they are offered.
15. When it is known that an employee is on bereavement or special and compassionate leave, he/she will not be called for overtime for the full period of the leave.
16. No person may work overtime on any part of a regularly scheduled shift for which he/she has been given authorized leave. If the person requests to work overtime in this instance, all hours worked during the regularly scheduled shift will be paid at straight time and the authorized leave will be cancelled for that period.
17. An employee who is absent due to sickness will not work overtime within 11.5 hours of a missed shift. If pre-booked overtime falls within 11.5 hours of a missed shift, it will be cancelled.

Accommodations

The following shall be applied to equalize the opportunities available to employees on accommodation:

1. Employees on accommodation who have indicated availability will be offered overtime opportunities in the same manner as all other employees on the roster.
2. When a person who is on accommodation can only perform specific duties, work specific hours, work specific days or work at specific posts, the employer may switch assignments between employees, if operationally feasible, in order to offer those on accommodation an opportunity to work overtime. Where an overtime opportunity cannot be offered or accepted for the above mentioned accommodation reasons, the hours will not be credited.

Community Escorts

In order to meet the community escort criteria, the employer may have to deviate from the overtime roster rotation. Should the employer be required to skip over an employee(s) in order to activate a community escort, the natural rotation will resume.

For example, a community escort is required and employee A is not community escort trained. The employer must skip to the first available community escort trained officer. If employee B is the first available trained officer, he/she will be offered the opportunity.

The next available overtime opportunity (not community escort) shall then be offered to employee A.

Positions Requiring Specialized Training

There are other positions within an institution that require specialized training (e.g., Cell Extraction Teams or Institution Crisis Intervention Teams) and as such, only a limited number of staff may be able to perform the duties.

If staff with specialized training are not on duty, the employer will hire the first person on the overtime roster who has the specialized training for the position. Should the employer be required to skip over an employee(s) in order to access a specialized trained employee, the natural rotation shall resume.

For example, employee A does not have the requisite training. The employer must then skip to the first available employee with the specialized training. If employee B is the first available trained employee, she/he will be called and the opportunity credited.

The next available overtime opportunity that does not require specialized training will then be offered to employee A.

Unclassified Employees

1. Unclassified employees shall only be offered overtime opportunities after all classified employees who have signed the overtime roster have been exhausted.
2. When an unclassified employee, who has been prescheduled for forty hours in a week, is offered an overtime opportunity as per (1) above, this will not result in the cancellation of a subsequent prescheduled shift.

EXHAUSTION OF OVERTIME PROTOCOL

Once all of the employees who indicated availability for a given shift have been called, the employer may offer the overtime to any employee in order to meet the operational requirements of the institution. The overtime protocol would then resume with the next available shift.

TERM OF PROTOCOL

Implementation of the Provincial Overtime Protocol and the computerized process will begin in October 2006 on an institution-by-institution basis. Individual institutions will continue using existing overtime protocols pending implementation.

The parties agree that the POP MERC subcommittee will meet on a quarterly basis or as otherwise required by the parties.

Either party may provide written notice of ninety (90) days to the other party, of their desire to terminate or revisit the agreement.

Upon the termination of this agreement, the employer must ensure that there is a fair and equitable system for distributing overtime opportunities in place at the local worksite.

Signed this day of May, 2008

For OPSEU:

For the Employer:

Dan Sidsworth

Steve Small

Emidio Casullo

Eduardo Almeida

Paul Johnstone

Sandra Harper