

NEW CASTLE COUNTY

PERSONNEL POLICY

NUMBER	1.02
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DATE	05/01/01

SUBJECT: FAIR LABOR STANDARDS ACT (FLSA)
ELECTION FOR LAW ENFORCEMENT
EXEMPTION

APPROVED:



OBJECTIVE: To document New Castle County Government's election under the Fair Labor Standards Act (FLSA) to apply a Section 207(k) exemption to certain employees in the Police Department for overtime compensation based on other than a 40-hour work week.

STATEMENT: Inasmuch as the FLSA states that it is the employer's option to elect a Section 207(k) exemption for employees in law enforcement activities; and inasmuch as the employees engaged in law enforcement for New Castle County Government meet the following criteria (29 C.F.R., Section 553.215):

- (a) Be a uniformed or plain clothes member of a body of officers and subordinates;
- (b) Be employed by statute or local ordinance to enforce laws designed to maintain public peace and order, to protect life and property from accident or willful injury, and to prevent and detect crimes;
- (c) Have the power to arrest; and
- (d) Have participated in a special course of instruction or study or will undergo on-the-job training in firearm proficiency, criminal and civil techniques, community relations, medical aid and ethics.

New Castle County Government, therefore, elects to apply the FLSA Section 207(K) exemption to certain employees engaged in the law enforcement activities of the County. This election applies to these employees regardless of their rank as trainees, probationary or permanent employees. The following is a list of the classifications of employees to which this exemption will apply:

1. Police Officer and PFC
2. Police Corporal
3. Police Sergeant
4. Senior Police Sergeant
5. Police Lieutenant
6. Senior Police Lieutenant

- (a) As a result of the election of the Section 207(k) exemption, the work period shall consist of 28 days, with a limit of 171 hours (or any other limit specified in the FLSA at a future date) before overtime compensation of time and one half must be paid in accordance with the FLSA.
- (b) Election of the Section 207(k) for certain employees will not affect any overtime compensation provided by a collective bargaining agreement. However, an overtime payment of one and one half times the regular rate of pay which is paid in accordance with a collective bargaining agreement may satisfy the overtime compensation required under the Section 207(k) exemption.

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Procedure: The Department of Police shall maintain the following records:

- (1) A notation of the Section 207(k) exemption in each employee's department file.
- (2) The work period schedule per employee or per shift specifying the time and day the work period begins and ends.
- (3) Hours worked each workday and total hours worked in each work period per employee.
- (4) Each employee's regular hourly rate of pay for any work period and the rate of pay and its calculation when overtime is worked and overtime excess compensation is due during each work period.

Any change in work assignment outside of the 28-day work period allowed under the Section 207(k) shall be reviewed with the Office of Human Resources before implementation.

REQUIRED ACTION: The management of the Department of Police are responsible for the implementation of and compliance with this policy.

Revised: 07/14/87
Revised: 07/01/97
Revised: 05/01/01