



Agenda Date: 11/22/2005  
Agenda Placement: 6P

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors  
**FROM:** Charla M. Freckmann for Mark Gregersen - Acting Director  
Human Resources  
**REPORT BY:** Charla M. Freckmann, Assistant Human Resources Director, 259-8720  
**SUBJECT:** Authorization to pay overtime for out-of-country travel

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### **RECOMMENDATION**

Acting Human Resources Director requests authorization for the Auditor-Controller to provide compensation for overtime incurred by two employees due to extraordinary circumstances requiring out-of-country travel:

1. Regina Clark, Child Recovery Assistant in the District Attorney's Office, for providing court authorized out-of-country travel to Paris, France reuniting the child with the child's legal guardian; and
2. Norma Cervantes, Child Protective Services Worker in the Social Services Division of the Health & Human Services Agency, for providing emergency custodial transportation of a minor and her infant child to Zacatecas, Mexico, for placement in the Mexican government's child protection agency for reunification with the minor's parents.

### **EXECUTIVE SUMMARY**

On two different occasions, the County was required to provide out-of-country custodial transportation under extraordinary circumstances. The assigned employees incurred overtime as a result of:

1. The reunification of a young minor child with the child's legal guardian pursuant to a court authorization which required traveling to Paris, France. The Board had approved reimbursing the employee for travel expenses as well as directing staff to submit a claim to the State for reimbursement under SB90 on July 26, 2005. During the pay period in which the travel occurred the employee earned 67.8 hours of overtime.
2. The "delivery" of a homeless minor child and her infant daughter, which were in protective custody of the County's Child Protective Services, to the Mexican government's child protection agency in order for the minor to be reunited with her parents in Mexico. During the pay period in which the travel occurred the employee earned 65.5 hours of overtime.

Today's requested action will enable the compensation of these two employees for overtime under the described extraordinary circumstances. Existing County policy regarding compensable travel time is not entirely clear under

these specific circumstances. The requested action does not establish a precedent regarding how the County interprets and applies the Fair Labor Standards Act, the County's Travel and Overtime Policies or any applicable Memoranda of Understanding provisions pertaining to the compensability of travel time.

### **FISCAL IMPACT**

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	Yes
Where is it budgeted?	District Attorney Social Services
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	<p>The District Attorney's final budget for FY 2005-2006 does include projected overtime expenses. The court authorized the District Attorney to retrieve the minor child. The DA concluded that the Child Recovery Assistant should accompany the father to Paris to ensure the safe return of the child.</p> <p>The Health &amp; Human Services Agency's final budget for FY 2005-2006 for the Social Services budget unit also includes projected overtime expenses. In this case, CPS determined to place the minor female child and infant daughter into protective custody pending the safe delivery of both to the Mexican government's child protection agency. Due to the ages of the minor and child and their custodial status, HHSA determined a designated CPS worker should provide custodial accompaniment to the minor and infant on the travel to Mexico.</p>
Is the general fund affected?	Yes
Future fiscal impact:	In both cases, the out-of-country transportation has been completed and therefore, there is no future fiscal impact arising out of these two situations.
Consequences if not approved:	The employees will not be appropriately compensated for duties performed on behalf of the County as a result of services the County was obligated to provide.
Additional Information:	None

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

### **BACKGROUND AND DISCUSSION**

On two separate occasions, the County was required to provide out-of-country custodial transportation under rare and extraordinary circumstances. The assigned employees incurred overtime as a result of performing the requisite duties over an extended but short period of time.

In June 2005, the District Attorney's Office was involved in negotiations in an attempt to reunite a minor child with her legal guardian pursuant to Family Code Section 3130. The court authorized the District Attorney to retrieve the child from Paris, France and the determination was made by the District Attorney that the Child Recovery Assistant should accompany the minor child's father to Paris to ensure the safe return of the minor child. Regina Clark, Child Recovery Assistant in the District Attorney's Office performed the necessary duties to accomplish this task and incurred 67.8 hours of overtime on June 30, 2005. On July 26, 2005, the Board approved the out-of-country travel and the reimbursement to the employee for expenses incurred while completing the reunification. At the same time, the Board directed staff to file an appropriate SB 90 claim for recovery of those expenses estimated to be approximately \$9,400.00.

In September 2005, CPS received a report of a 16-year old minor female with an infant daughter without any known parent or legal guardian to provide support. After an investigation, it was determined that the minor was homeless and the decision was made to place the minor and her infant daughter into protective custody while emergency arrangements were made to reunite the minor with her parents in Mexico. CPS Worker Norma Cervantes was assigned the task of accompanying the minor and her infant to Mexico for placement into the custody of the Mexican government's child protection agency. During the period from September 22, 2005 through September 25, 2005, the assigned employee incurred 65.5 hours of overtime.

Both employees have not yet been compensated for the overtime incurred as a result of the necessary travel and work time required to accomplish the assigned tasks. Existing County policy is not entirely clear as it relates to the compensability of travel time under extraordinary circumstances such as in these two instances. However, if the Board were to authorize the compensation of the overtime, the Public Services Employee Memorandum of Understanding, in Article 27.1(a), allows for covered employees to be compensated for overtime, either in the form of cash or compensatory time off.

Today's requested action would allow for the payment of overtime compensation to these employees, but is not intended to establish a precedent regarding future travel time compensation for County employees. The CEO, Auditor-Controller, Human Resources and County Counsel are reviewing the County's Travel and Overtime Policies for clarification of these issues and will return to the Board in the near future with recommended revisions regarding overtime compensation as may be related to out-of-state and/or out-of-country travel under extraordinary circumstances.

## **SUPPORTING DOCUMENTS**

None

CEO Recommendation: Approve

Reviewed By: Andrew Carey