

How to Use the ICE Administratively Uncontrollable Overtime Report

The U.S. Immigration and Customs Enforcement (ICE) Administratively Uncontrollable Overtime (AUO) Report was revised in order to streamline the process for employees, better ensure compliance with the regulatory criteria, and document the use of AUO in a way that can be effectively reviewed by supervisors and outside parties. The previous version of the form required employees to provide all relevant details regarding their AUO hours in a narrative, describing both the duties and the circumstances that justified the overtime. The new version of the form has simplified this requirement by having AUO recipients enter a "Duty Code" and a "Situation Code," and use the narrative to supplement that information.

These instructions explain the Duty and Situation Codes. Duty Codes are used to signal the type of work performed under AUO. Situation Codes are used to signal the circumstances that triggered the irregular or occasional overtime. The Narrative field is used to provide the details needed for a supervisor or third party to confirm that the report is accurate, to elaborate an "other" code, or to identify the basis for marking the day "excludable."

If the work was uncontrollable in nature, meaning the work had to be performed under exigent circumstances making supervisory approval impractical, self-initiation of AUO is permitted. However, for work arising during the administrative workweek and at the conclusion of the regularly-scheduled tour of duty that is not exigent in nature, supervisory approval should be obtained before performing the work. The supervisor will determine whether irregular overtime (under AUO) is operationally justifiable.

DUTY CODES

The Duty Codes list the primary duties that might necessitate hours initiated under and/or compensated by AUO. Employees should select the Duty Code(s) that applies to the duty that they performed under AUO. While this list of duties and situations generally encompasses the types of duties that may warrant AUO, it is not an exhaustive list and employees should consult with their supervisors as to whether particular circumstances may also justify AUO. If more than one Duty Code applies, multiple codes may be listed. If no Duty Code applies, employees should use Duty Code "Z" and provide a detailed explanation in the narrative.

In addition to the primary officers or agents who perform the covered duties, the Duty Codes also apply to officers or agents performing work directly incident to and concurrent with the primary task. For example, if an officer is conducting surveillance, the personnel providing support and assistance with the surveillance, including the supervising manager, should use the same Duty Code(s) as the primary officer.

A. ARREST, PROCESSING, and OTHER LAW ENFORCEMENT

- **Arrest of Suspected Criminals:** Evaluating whether suspect(s) is in violation of laws, and, where appropriate, arresting, taking custody of, and processing suspect(s).
- **Arrest of Aliens:** Evaluating alienage against law and ICE priorities and, where appropriate, arresting, taking custody of, and processing an alien.
- **Lodging of Detainers & Taking Custody:** Lodging immigration detainers and taking aliens from another law enforcement agency's custody into ICE custody.
- **Law Enforcement Operations:** Engaging in law enforcement actions in the field consistent with the duties and responsibilities of an agent or an officer and with ICE policy.

B. INVESTIGATION, SURVEILLANCE, or INTELLIGENCE

- **Interviews/Interrogation:** Eliciting information from individuals to develop leads or actionable intelligence related to target aliens or law enforcement objectives.
- **Surveillance:** Procuring information related to a law enforcement target(s) or individuals associated with a target. Duties that fall under “Surveillance” can include:
 - Observing issues of concern such as family presence, gang information and/or a variety of hazards, etc.;
 - Changing logistics or operational plans regarding schedule or location of targets;
 - Following up and analyzing late-developing or rapidly-changing tactical intelligence, especially if impacting officer safety;
 - Operation of electronic surveillance or other technical equipment or systems, including placement, maintenance, monitoring and use during law enforcement operations, as well as diagnostics and repair, particularly where system(s) unexpectedly ceases to function properly.
- **Collection/Preservation of Evidence:** Identifying, collecting, preserving, and analyzing relevant evidence (including court ordered electronic surveillance using technical systems).
- **Leads:** Developing or following up on leads or other sources of information that require time-sensitive and/or immediate attention in order to cultivate actionable intelligence.
- **Intelligence Review/Analysis:** Reviewing intelligence where immediate review is necessary because of potential for immediate and/or long-lasting impact on operations.
- **Undercover Operations:** Law enforcement activities, such as controlled deliveries, where employees work undercover to investigate potential violations of law and obtain relevant evidence. Such operations may also be classified under at-large law enforcement if that category is more appropriate to the specific circumstances.

C. CASE MANAGEMENT

- **Management of Alien Case Files:** Analyzing case files to ensure that charging documents are legally sufficient and that all necessary documentation and biometric and records checks have been completed, both during intake and during review of requests in order to make final determinations for stays or prosecutorial discretion, particularly under time-sensitive circumstances.
- **Claims to U.S. Citizenship:** Case review, interview, adjudication, and submission of all U.S. citizenship claims.
- **Consulate Interviews:** Consular interviews of aliens to determine and verify citizenship prior to processing travel document requests.
- **Travel Document Requests:** Coordinate and approve the issuance of travel documents for high profile or imminent removals or transports that are time-sensitive in nature to the law enforcement mission.
- **Bond Processing & Deposits:** Reviewing bond eligibility requests, processing of all time-sensitive bond-related functions and required daily bond deposits. Additionally, executing any logistical actions associated with the timely release of an alien once a bond is posted.
- **Assistance in Trial Proceedings:** Preparing for and testifying at hearings or trials for ICE, whether alien or criminal, by case/docket management officers, arresting officers, or technical officers.
- **Completion of Time Sensitive Reports:** Completion of reports during irregular overtime hours (under AUO) where completion is operationally/legally necessary and particularly time sensitive, and the performance of these activities during irregular overtime is justified.

Note: Performance of these duties during irregular overtime (under AUO) should typically be associated with Situation Code “4” (Call-Outs/Call-Backs and On-Call Duties), or “5” (Ordered/Approved Irregular Overtime). If these tasks are self-initiated, ensure that the narrative explains why the tasks needed to be performed immediately, without time for supervisory approval, so that the failure to act would constitute negligence by the officer/agent (would cause serious operational or safety risks).

D. CUSTODY and DETENTION MANAGEMENT

- **Intake operations:** Receiving and processing aliens into an appropriate federal, state, or local facility, particularly during abnormal hours or under uncontrollable circumstances.
- **Intervention:** Receiving, investigating, and processing complaints regarding, by or on behalf of detainees in custody (e.g., health, use of force, safety), particularly where claim, if substantiated, will require immediate action.
- **Enforcement:** Responding to exigent events such as calculated use of force encounters, riots, or other situations necessitating special responses.
- **Electronic Monitoring Alerts:** Responding to an Alternative to Detention alert.
- **Releases:** Facilitating release of aliens and their property from custody due to health concerns, prosecutorial discretion/grant of relief, humanitarian concerns, court order, etc., particularly where release is unexpected and must be processed immediately.

Note: Performance of these duties, particularly intake operations, during irregular overtime (under AUO) should typically be associated with Situation Code “4” (Call-Outs/Call-Backs and On-Call Duties), or “5” (Ordered/Approved Irregular Overtime). If these tasks are self-initiated, ensure that the narrative explains why the tasks needed to be performed immediately, without time for supervisory approval, so that the failure to act would constitute negligence by the officer/agent (would cause serious operational or safety risks).

E. LAW ENFORCEMENT/PUBLIC SAFETY VERIFICATIONS

- **Required Database Checks Prior to Release/Removal:** Remaining on duty to verify validity of removal or release of aliens against the Department of Homeland Security and/or other data systems, particularly in field work context or where release is not within the administrative control of ICE.
- **Terrorist Watch List Checks:** Verifying and confirming whether individuals encountered during ICE enforcement efforts are on the terrorist watch list by conducting Terrorist Screening Center checks, particular in the context of field work or where an immediate check is required and does not arise from a matter within the administrative control of ICE.
- **Warrant Confirmation:** Confirming the validity of an ICE criminal or administrative warrant, National Crime Information Center status, Wanted Person Files for Federal, State, Local and Tribal law enforcement, particularly in the context of field action or where an immediate confirmation is required, not arising from a matter within the administrative control of ICE

Note: Performance of these duties during irregular overtime (under AUO) should typically be associated with Situation Code “4” (Call-Outs/Call-Backs and On-Call Duties), or “5” (Ordered/Approved Irregular Overtime). If these tasks are self-initiated, ensure that the narrative explains why the tasks needed to be performed immediately, without time for supervisory approval, so that the failure to act would constitute negligence by the officer/agent (would cause serious operational or safety risks).

F. TRANSPORTATION DUTIES/ESCORTS

- **Escorts:** Accompanying an alien or other individual in custody during air/land transport.
- **Emergency Transport Coordination:** Coordinating time-sensitive mission-critical travel arrangements, including juvenile transports, detainee transfers, family reunifications, or unexpected or unscheduled operational needs such as incidents of national interest, medical issues, and mechanical or inclement weather problems, etc.

Note: Most escorts are planned with enough advance notice that they can be regularly scheduled. Irregular overtime (under AUO) will generally result from delays or unexpected, but minor, variations in the transportation schedules. However, certain escort or transport assignments are of an emergent nature or otherwise cannot be planned before the administrative workweek, such that the entire assignment will result from an order to perform irregular overtime under AUO. When marking this Situation Code, employees should provide sufficient details in the narrative field to describe the context of the On-Call work.

Z. OTHER DUTIES (DESCRIBE IN DETAIL)

This code should be used for duties that do not fall under any of the categories listed above. These duties could include responding to alarms/trespass at ICE facilities, responding to off-duty personnel issues requiring immediate action, or collateral duties where circumstances require performance of irregular overtime. Use the narrative section to provide a detailed description of the duties performed whenever code “Z” is marked.

SITUATION CODES

The Situation Codes explain why the overtime duties performed by the employee were performed during irregular or occasional overtime under AUO, rather than as part of the regular workday by the employee (or passed onto another employee), or on regularly scheduled overtime. The Situation Codes cover a broad variety of contexts, which are elaborated below. Employees should select the best fit for the circumstances that caused them to work the irregular overtime during the hours in question. If more than one Situation Code applies, multiple codes may be listed. If no Situation Code applies, employees should use code “9” and provide a detailed explanation in the narrative.

1. RESPONSE to EMERGENCIES/UNFORESEEABLE EVENTS

- The overtime (under AUO) was caused by an emergency or unforeseeable event, where immediate response/continuation of duty was required by operational needs or for the safety of Agency employees, persons in custody, or the public. The exigency was not based primarily on the preferences of Agency or Department officials or employees, or otherwise within ICE’s administrative control.

2. FIELD OPERATIONS BASED ON UNCONTROLLED FACTORS

- The overtime (under AUO) was caused by an operation in the field, where the timing of the operation and the immediate response/continuation of duty was dictated by factors beyond the Agency’s control (e.g., the movement patterns of targets/suspects, the number of aliens/suspects apprehended materially exceeded the realistic expectations of an assignment, etc.). The term “operations” includes not only principal law enforcement functions, but related activities such as the exigent placement or repair of surveillance equipment or exigent provision or replacement of necessary equipment. Such operations include but are not limited to general undercover operations and certified undercover operations. The timing of the work was not based primarily on the preferences of Agency or Department officials or employees, or otherwise be within ICE’s administrative control.

3. UNCONTROLLABLE DELAYS

- The work assignment was initially regularly scheduled (basic hours or regular overtime) but delays occurring during the administrative workweek or during the assignment were beyond the reasonable administrative control of ICE. This includes, but is not limited to, traffic extending the duration of a ground transport, changes to flights schedules (noting that whether wait time qualifies as travel time is within the sole and exclusive discretion of ICE management), delays caused by obstruction or non-cooperation of outside parties (e.g., uncooperative aliens), or other similar delays.

4. CALL-OUTS/CALL-BACKS and OTHER ON-CALL DUTIES

- The overtime was caused by a recall to work or other work incident to placement on On-Call Status. On-Call Status can be implemented through the assignment of a “Duty Phone” or other mechanisms, and work during this status can include both responding to “off-duty” phone calls and actually reporting to a location or returning to the office as a result of a “call-back” or “call-out.”
- On-Call Status can also be designed around specific tasks and circumstances. For example, an Enforcement and Removal Operations field office has a local policy where the “duty officer” carries a phone but will only be responding to calls from local law enforcement agencies, and the authorized duty will be limited to investigation and possible placement of a detainer (pickup being handled by a different unit/officer in this example), with a typical time limit of one hour per detainer.

Note: On-Call duties, in and of themselves, are not sufficient to support certification for AUO. However, when On-Call duties lead to work, this work is by definition “irregular or occasional overtime,” which is credited towards and compensated with AUO for properly certified employees. Additionally, if an employee has returned home or is off-duty for the day, but is called back and required to report to the office or another work location (e.g., a local jail), that employee is entitled to a minimum of two hours of work, or the amount of time spent performing work if greater than two hours of work.

5. IRREGULAR OVERTIME ORDERED / APPROVED BY A SUPERVISOR

- Duties that are ordered to be performed during irregular overtime hours (under AUO) by a supervisor, where those hours occur within the same administrative workweek during which they were ordered, and the supervisor did not have a reasonable basis to know, in advance of the administrative workweek, that the overtime work was going to be needed to be performed at all, when and how many hours would be needed for the overtime work, or which employee or employees would be needed to perform the overtime work.

Note: Ordered and Approved Irregular Overtime (under AUO) should be documented in writing, whether electronic (e.g., an approval via email for the date and hours in question) or hard copy, in a manner consistent with the policies and practices of the office. This may include standing orders authorizing overtime for certain events, similar to placement in On-Call status. It can be used for any work for which the need develops within the same administrative workweek, including due to fluctuations in workloads. This situation code is not necessarily exclusive of other situation codes. If irregular overtime under AUO is the result of both a supervisory order and circumstances consistent with another situation code, both codes should be listed. Employees and supervisors should ensure that this authority is used to address operationally-necessary work and variations where the days and hours cannot be anticipated with reasonable certainty. It should not result in a pattern of irregular overtime (under AUO) always being ordered on certain days/hours, or each week always having the same amount of AUO overtime or

Ordered and Approved Irregular Overtime (under AUO). If such a pattern exists, the supervisor should be regularly scheduling the overtime in advance of the administrative workweek.

9. OTHER ADMINISTRATIVELY UNCONTROLLABLE CIRCUMSTANCES (DESCRIBE IN DETAIL)

- Circumstances that do not fit into the above categories, but where there is no reasonable ability to timely receive supervisory approval for irregular overtime, and the failure of the officer or agent to immediately act would cause serious operational or safety risks, and effectively be negligent conduct. If using this code, ensure that the narrative contains sufficient detail to explain why the circumstances meet this standard.

EXCLUDABLE DAYS

An officer or agent claiming a day as “excludable” should use the narrative to explain why the day qualifies as an excludable day (e.g., “*Attending defensive tactics training for 8 hours, day 4 of 10*”) and mark a “1” in the “Excludable Day” column, while leaving the Duty and Situation code columns blank.

Pursuant to Office of Personnel Management (OPM) guidance, the only days which may be excluded from the computation of the AUO rate, and therefore marked “excludable,” are the days specified in 5 C.F.R. § 550.154(c). This regulation allows the exclusions of the days in which AUO pay continues pursuant to 5 C.F.R. § 550.162(c) and (g). This means that the only days which may be marked “excludable” are days where in employee is:

- (1) detailed or temporarily assigned to duties which do not warrant certification for AUO (“non-AUO duties”), for up to ten (10) consecutive workdays and thirty (30) culmulative workdays per calendar year;
- (2) assigned to participate in formally approved advanced training directly related to AUO duties for up to sixty (60) workdays in a calendar year, to include any time spent on a detail or temporary assignment to non-AUO duties;
- (3) detailed or assigned to non-AUO duties in direct relation to a national emergency declared by the President, for a period of not more than thirty (30) consecutive workdays, and not more than nintey (90) workdays in a calendar year.

RETENTION OF FORMS

AUO Forms must be retained, in accordance with the General Records Schedule 2, item 7, for 6 years, or until a GAO audit, whichever occurs first.