

First of all, I hope that the members of the Commission and their families have fared well during the pandemic so far. 11 law enforcement officers in Louisiana have died as a result of COVID-19, including 1 here in New Orleans.

Civil Service Rule 4 Section 11.1 is simple and clear. If there is a declared state of emergency and the Mayor has asked only essential employees report to work, then those employees SHALL be paid at a rate of time and one half.

Louisiana Constitution Article 10 Section 10 states that the Commission's rules have the force and effect of law.

The Mayor declared a state of emergency on March 11, 2020. CAO Circular Memo 20-07 laid out what employees were supposed to do starting March 23, 2020. What is clear is that one group of employees was expected to continue reporting to work in person and one group of employees was allowed to stay at home. The employees who were expected to report to work in person as usual were designated as critical employees. The employees who were allowed to stay at home were designated as non-critical employees.

The words critical and essential mean the same thing. In fact, in the City's response to my letter, the City Attorney referred to those employees staying home as "non-essential." The words are interchangeable. In her May 14, 2020 letter to this Commission, the City Attorney attempts to differentiate between critical and essential employees. However, none of those definitions appear in the Rules of this Commission. Call it what you will, essential employees or critical employees are those employees the Mayor deems necessary to continue reporting to work in person. It is a distinction without a difference.

Out of the non-essential employees allowed to stay at home, one group was allowed to continue working remotely. Those employees were able to do some or all of their work from the safety of their homes. Another group of non-essential employees were not allowed to work from home and were carried civil leave between March 23 and May 16. Effective May 16, the CAO has revoked the authority given to appointing authorities to carry employees civil leave. As the City Attorney pointed out in her letter to this Commission dated May 14, 2020 there will be employees in their regular offices starting May 16.

An example of a state of emergency that does not trigger the emergency rate of pay rule, I would point to the collapse of the Hard Rock Hotel. There was a declared state of emergency as a result of the collapsed construction project. However, no employees were sent home on civil leave or to work at home. All of the City's employees continued to report to work as usual.

In the current state of emergency, one group of employees has had to leave the safety of their homes to go to work because it was deemed necessary for the continued operation of the city. Some of those employees – police officers - are FOP members. Those officers, employees of the NOPD, risked coming into contact with the new coronavirus threat every time they left their homes. In addition to the threats and risks these police officers regularly face, the novel coronavirus threatened to put them in a hospital with their fingers crossed, hoping there will be a ventilator available for them. Three officers were shot during this state of emergency One officer, Mark Hall was killed by COVID-19. He and his partner contracted the disease assisting homeless individuals to reduce the risk in light of the threat caused by the virus. Officer Hall's partner is still trying to overcome COVID-19.

In addition to facing these extra dangers themselves – dangers directly related to being essential to the continued operation of city government – their families have been exposed to the danger as if they, the sons and daughters of these essential employees, had been sent to relocate the homeless community or answer calls for service at the Lambeth House. In addition to hoping their significant other makes it home from work without bullet holes, partners of police officers had to worry about their officers making it home safely and not contagious.

There is a declared state of emergency. The adjective critical means the same thing as the adjective essential. The CAO's policy says that the appointing authorities were to identify essential employees and only have those employees to report to work as usual. That is what is required by rule 4 sec. 11.1 to trigger the emergency rate of pay. This pandemic is not a game. Officer Hall did not die playing a game.

Officers don't have to look very hard to see that the Levee Board police have been getting double time pay since this thing started. Fema reimburses Covid-19 measures at 90% and it will get to 100% at some point.

These employees have put in the work. Effective May 16, non-essential employees are returning to work. Police officers will be able to take furlough again, something that was canceled around March 23. March 23 – May 16. That's it. We need to quit playing games and splitting hairs. The elements of Rule 4 Sec. 11.1 were satisfied from March 23 through May 16. The rule, which has the force and effect of law, says that once those elements are satisfied that the essential employees reporting to work **SHALL** be paid 1.5x until the emergency has ended or employees are returned to work and city offices are opened. Non essential employees returned to work at city offices starting yesterday