

## **SECONDARY EMPLOYMENT**

1. **PURPOSE:** To provide guidelines governing employees involved in secondary employment.
2. **POLICY:** The Huntsville Police Department supports and permits employees to engage in secondary employment provided they comply with the guidelines established in this Directive and current City of Huntsville policy.
3. **SCOPE:** This directive is applicable to all personnel.
4. **RESPONSIBILITIES:** All employees will comply with this directive. The office of the Administrative Services Commander will be the point of coordination for all matters involving secondary employment. Bureau Commanders will be responsible for overseeing compliance in the areas under their command and will review approved jobs as needed to ensure adherence to this directive. The Administrative Services Commander's Office will initiate review of secondary employment processes as needed to ensure compliance with established procedures.
5. **DEFINITIONS**
  - A. **PRIMARY EMPLOYMENT:** The Huntsville Police Department (HPD) will be considered the primary employer, and no other employment may be scheduled concurrent to the employee's normal duty hours UNLESS it occurs during periods of authorized leave or during the employee's normal off days.
  - B. **SECONDARY EMPLOYMENT:** Any employment other than that of primary employment, including volunteer work.
  - C. **EXTRA-DUTY EMPLOYMENT:** Any employment that is conditioned on the actual or potential use of law enforcement powers by the sworn employee.
  - D. **OFF-DUTY EMPLOYMENT:** Any employment, including self-employment, that will not depend on the use, or potential use, of law enforcement powers by the off-duty employee.
  - E. **VOLUNTEER WORK:** Any employment involving the use of law enforcement powers or otherwise, for which there is no compensation.
6. **GENERAL PROCEDURES**

- A. All employees must successfully meet their primary employment obligations before seeking any secondary employment. The Department's concern with employment outside the agency is that it is lawful and poses no conflict with Departmental regulations.
- B. It must be understood that if an employee begins to show a decrease in his/her primary employment job performance or the secondary employment presents actual or potential harm to departmental operations or is not in the best interests of the Department, permission to engage secondary employment may be revoked or denied.
  - 1. Where a decrease in job performance due to the employee's secondary employment is at issue, the employee may be asked to lessen the time spent working at the secondary job until the employee is able to perform effectively at his/her primary work. If the Departmental request fails, then the Department may instruct the employee to terminate the secondary employment. If the employee fails to comply, then the employee may be subject to disciplinary action and possible dismissal due to poor job performance.
  - 2. If the secondary employment presents actual or potential harm to departmental operations or is not in the best interest of departmental operations, then the Department may instruct the employee to terminate the secondary employment. If the employee fails to comply, then the employee may be subject to disciplinary action and possible dismissal.
- C. An employee's approved secondary employment is contingent upon the employee's retention in an active capacity in good standing in his or her primary employment position.
  - 1. Should an employee be subject to a disciplinary suspension, the employee shall lose the privilege of secondary employment for the length of time of the suspension only, unless the disciplinary action results from a violation of a City of Huntsville or an HPD outside (secondary) employment policy(s).
  - 2. Should an employee be placed on administrative leave or relieved of duties involving police powers pending a disciplinary investigation, the employee shall not engage in extra-duty employment at any time or off-duty employment during the employee's normal HPD working hours.
- D. Secondary employment is also governed by City of Huntsville personnel policies and procedures.
- 7. **APPROVAL GUIDELINES:** Permission must be given by the Department for an employee to work any secondary employment with the exception of volunteer work of

the off-duty nature. The following guidelines will be used by the Department when considering the employee to participate in secondary employment:

- A. **CONFLICTS OF INTEREST:** Such employment must present no actual or potential conflict of interest. A conflict of interest will be deemed to exist when there is an actual or potential conflict between a valid interest of the Department (including, but not limited to, an employee's duties as a police officer) and the employee's duties as part of his or her secondary employment. A conflict of interest covered by this provision shall not be limited to conflicts of interest as defined by the Alabama ethics law, but shall also include, but not be limited to, any actual or potential conflict which might jeopardize the Department's ability to perform its law enforcement function in the most effective manner. Some examples of employment representing a conflict of interest include, but are not limited to:
1. As a process server, one who repossesses, or bill collector, in towing of vehicles, or in any other employment in which police authority might tend to be used to collect money or merchandise for private purposes;
  2. Personnel investigations for the private sector or any employment which might require the employee to access, or benefit from the employee having access to, police information files, records or services;
  3. In police uniform, in the performance of tasks other than those of a police nature;
  4. Employment which assists, in any manner, case preparation for the defense in any criminal action or proceeding;
  5. Employed at which assists, in any manner, case preparation in any civil action or proceeding or claim proceeding;
  6. Against any municipality in the State of Alabama (including its elected officials, officers, agencies, or employees operating in the ordinary course of municipal business) or the State of Alabama (including its elected officials, officers, agencies, or employees operating in the ordinary course of state business).
  7. Arising out of Madison, Limestone, Morgan, Marshall, Jackson, Colbert, Franklin, Lauderdale, Lawrence, Cullman, Etowah and Dekalb Counties in the State of Alabama, and Giles and Lincoln Counties in the State of Tennessee, and any other county deemed problematic by the Chief on a case-by-case basis in a reasonable exercise of his or her discretion, or which civil action or claim proceeding (or employment relating thereto) does or has the potential, however minimal, to involve, touch upon, or relate to the work or work product of any law enforcement officer or agency operating in said counties.

8. This prohibition shall not apply to the counties specified under the paragraph immediately above, for employment assisting in case preparation of non-adversarial proceedings, such as the preparation of wills, trusts, contracts, or other legal documents, or the performance of probate work, real estate transactions and closings, uncontested divorces, or similar matters, where such proceedings or outside employment has no potential to involve, touch upon, or relate to the work or work product of any law enforcement officer or agency operating in said counties.
  9. Arising out of Jefferson, Montgomery or Mobile Counties in the State of Alabama and which does or has the potential, however minimal, to contradict or conflict with the work or work product of any law enforcement officer or agency operating in said counties.
  10. Which does or has the potential, however minimal, to contradict or conflict with the work product of any investigatory, regulatory or law enforcement agency of the State of Alabama, or any elected official, officer, or employee of such an agency operating in the ordinary course of State business.
  11. In all cases, the burden will be on the employee to ensure that any work performed under this provision (i.e., employment which assists, in any manner, case preparation in any civil action or proceeding or claim proceeding) satisfies the conditions stated herein, not only at the outset of work on a case, but also at any point during work on a case.
  12. For a business or labor group that is on strike; or
  13. In occupations that are regulated by, or that must be licensed through, the Department.
  14. The Administrative Services Commander will have the primary responsibility for ensuring that businesses/persons requesting to employ officers in a secondary employment capacity meet the guidelines listed in this directive. The Administrative Services Commander will seek approval through the chain of command in situations where the request is of a questionable nature.
- B. THREATS TO PROFESSIONALISM:** Such employment must not constitute a threat to the status or dignity of the police as a professional occupation. Examples include, but are not limited to:
1. Establishments which sell or rent pornographic materials in violation of existing obscenity laws and ordinances;

2. Any employment for a business holding a Class IV liquor license, or business that manufactures or transports alcoholic beverages as the principal business; unless otherwise approved by the Chief of Police.
  3. Any employment involving an establishment whose management, business, members, or operation is deemed questionable by the Chief of Police based on justifiable and reasonable cause.
- C. INSURANCE: Officers employed in extra-duty employment or volunteer work that may employ potential or actual use of police powers must comply with Alabama Law, Title 6: Civil Practice - Section 6-5-338, that requires employers of extra-duty peace officers or the officer to have at least \$500,000 liability in force to indemnify any acts of such off duty peace officer; and to provide that failure to have such insurance in force shall make individual owners or general partners or corporate officers of the employer liable for all acts taken by such peace officer in the line and scope of such private employment.
1. Certificates of insurance must include the following information:
    - a. Insurance company name;
    - b. Exact name of person, business, or agency requesting to hire police officer (refers to the actual location where the officer will be performing his/her duties and this may be different from the policyholder);
    - c. The correct address of the hiring agency or person;
    - d. The policy effective date and the policy expiration date;
    - e. The type of insurance, e.g., general liability;
    - f. Description of operations, locations, vehicles, special items used in performing the extra-duty employment; and
    - g. The name of the certificate holder.
    - h. Wording that would indemnify any acts of such off-duty Huntsville Police officer.
  2. It is the officer's responsibility to ensure the policy, including self-insurance policies, remain in force. No approval will be granted for extra-duty employment

unless the proper liability insurance is provided and the insurance proof is provided to the Administrative Services Commander's office.

3. Officers may carry their own insurance, so long as it meets the requirements set forth under Alabama law governing extra-duty liability insurance, as described above, and the insurance proof contains the applicable information listed in 1a through 1g above.
  4. The extra-duty employer or officer will agree to accept all legal and financial responsibility for injuries caused by, or to, the Officer while engaging in extra-duty employment, with the exception of a hazardous duty injury.
  5. Off-duty employment and volunteer work that are not conditioned on the actual or potential use of law enforcement powers are not required to possess the abovementioned liability insurance policy.
- D. REQUESTS FOR APPROVAL: Requests for approval of secondary employment will be made on the approved form. Requests must be submitted a minimum of 5 business days in advance, to allow adequate time for approval up to the Captain's level. The request form will include but not be limited to: Request Date, Type of Premise, Business/Person Requesting Officer, Address of Duty Assignment, Date of Assignment, Day of Week, Duty Hours, Duties to be performed, Assigned Officer, Rate of Pay (if applicable) and Number of Hours. The supervisor will verify that the officer is maintaining satisfactory performance and uniform/appearance requirements, and approval or disapproval with his or her signature. The form must indicate that a current certificate of insurance is on file or that the employer is exempt from the insurance requirements.
1. EXTRA-DUTY: Either an Officer or a potential employer may submit a request for approval. The request form will include all information required to ensure compliance with the guidelines set forth in this Directive. The request will be submitted through the Chain of Command through the level of Captain for review and approval, and then forwarded directly to the Administrative Services Commander, who will be responsible for maintaining all records of secondary employment.
  2. REQUESTS FOR REAPPROVAL: Requests for re-approval will be necessary under the following conditions:
    - a. At any time when the insurance policy renewal occurs;
    - b. If a request for re-approval based upon renewal of an insurance policy does not occur on at least an annual basis, then a request for re-approval must be

made annually, consistent with the City's Personnel Policies and Procedures Manual; and

- c. At any time when there is any significant change in duties or employer, or any substantial change in the conditions as originally approved for the job.
3. EMERGENCY REQUESTS: Shift Commanders may grant approval for requests received on extremely short notice (i.e., circumstances which arise that require approval short of the normal 5-day approval time) for jobs lasting no longer than two days.
    - a. For example, a legitimate emergency request might arise from premises damage due to criminal act or act of nature that creates an immediate need for off-duty officers to provide security. Shift Commanders must ensure that a legitimate reason exists for approving the job short of the normal process before granting approval.
    - b. In addition, the Shift Commander will include a short explanation on the approval form, describing the circumstances and indicating why the job was approved at his or her level, rather than through the normal process. The circumstances will be reviewed by the Chain of Command to ensure that the short-notice approval was appropriate.
    - c. Shift Commanders will ensure that the job they are approving complies with all provisions of this directive, and may fill these requests with any eligible officer, as long as insurance requirements are met, and the officer is in good standing.
    - d. Officers working such emergency requests will be responsible for forwarding the proper approval form to the Administrative Services Commander's office with the signature of the approving Shift Commander, within twenty-four (24) hours after the approval of the assignment.
4. OFF-DUTY EMPLOYMENT: Off-duty employment must be submitted for approval through the Chain of Command to the Chief of Police. Records of such employment will be maintained by the Administrative Services Commander. The Department's concerns are that the job performed is lawful and poses no conflict with departmental regulations. Off-duty employment requests are governed by the general procedures stated in this directive. Approvals for off-duty employment will be contingent upon the following:

- a. A Police officer engaged in any off-duty employment is subject to call-out in case of emergency and must be able to leave his or her off-duty employment in such situations.
- b. No Officer will be required by a prospective off-duty employer to sign any “hold harmless” or indemnification clause, in which the employee agrees to relieve the private employer of liability for actions or injuries that may occur as a result of the performance of the employee’s duty, either police-related or otherwise.

5. REVIEW AND REVOCATION:

- a. If an Officer has been approved to work extra-duty employment and it is subsequently determined that the Officer is actually providing an extra-duty police service to an otherwise unacceptable location or business establishment, then that extra-duty employment, regardless of who the employer of record may be, will be considered unacceptable and the approval will be revoked. If the circumstances surrounding this revocation show an effort on the officer’s part to circumvent the guidelines contained in this directive, disciplinary action may be initiated.
- b. Approval to perform off-duty employment may be revoked if there is a decrease in the employee’s job performance for the Department, the off-duty employment represents actual or potential harm to departmental operations, or the employment is determined not to be in the best interests of the Department. If the circumstances surrounding this revocation show an effort on the employee’s part to circumvent the guidelines contained in this directive, disciplinary action may be initiated.

8. EXTRA-DUTY EMPLOYMENT

A. Police officers may engage in this type of employment when:

1. A government, profit-making or not-for-profit entity has an approved agreement with the Police Department for Police Officers in uniform who are able to exercise police duties;
2. The appropriate liability insurance has been secured by the extra duty employer or officer; and
3. Approval has been received for the officer to work the extra duty employment.

B. **TYPES OF SERVICE:** Types of extra-duty services which may be considered for approval include, but are not limited to:

1. Traffic control and pedestrian safety;
2. Wide trailer escorts;
3. General security functions;
4. Routine law enforcement of life and property; and
5. Plain clothes assignments, if expressly approved by the Chief of Police.

C. **JURISDICTION:** Extra-duty employment is not to be performed outside the City Limits of Huntsville unless approved by the Chief of Police.

D. **QUALIFYING CRITERIA:** Officers must meet the following criteria in order to qualify for extra-duty employment:

1. The police employee must be in good standing with the Department; continued Departmental approval is contingent on such good standing. An overall less-than-Effective Employee Performance Evaluation may result in the suspension of an Officer's eligibility to perform extra-duty employment until his/her performance returns to an overall Effective level.
2. No Officer may perform extra-duty employment while on disciplinary suspension, on administrative leave, relieved of duties involving police powers or in Leave Without Pay/Unexcused status.
3. Officers will not be permitted to work extra-duty employment until they have been employed for one year after their academy starting date. Lateral entry Officers may be permitted to work extra-duty employment after six months from their academy starting date. Prior to that time, permission may be granted to work off-duty employment and Department sponsored extra-duty assignments (e.g., football games, Big Spring Jam, Panoply, etc.) under the auspices of a sworn supervisor.
4. Officers are prohibited from working any extra duty employment while off work for any of the following reasons:
  - a. On military leave
  - b. Sick leave
  - c. Light duty
  - d. Industrial injury

- e. FMLA (when the officer is the patient)
- f. Worker's Compensation
- g. Hazardous duty injury

Officers on sick leave or worker's compensation will not be authorized to engage in extra duty employment during any calendar day within which the officer is utilizing sick leave or receiving worker's compensation benefits.

- 5. While using FMLA benefits, officers may work extra duty employment if:
  - a. Approved by HR (Case by Case basis)
  - b. A family member is the patient
  - c. Compensatory or vacation time is being used for the day extra-duty is worked, if during the officer's normal work hours

E. **LOSS OF ELIGIBILITY:** In addition, eligibility for extra-duty employment may be withdrawn for the following reasons:

- 1. Failure to qualify with duty firearm.
- 2. Failure to comply with this directive.
- 3. Overall Less-than-Effective job performance in the officer's primary duty assignment.
- 4. When Departmental procedure has determined through justification and cause, concerns that such extra-duty employment is not in the best interests of the Department.
- 5. Any Officer whose eligibility for extra-duty employment is withdrawn will be promptly notified, in writing, of the reason(s) for the action and the conditions under which he/she may reapply for eligibility.

F. **ROTATING ROSTER FOR EXTRA-DUTY EMPLOYMENT:** A rotating roster will be maintained by the office of the Administrative Services Commander for the purpose of filling extra-duty employment requests received by the Department. Responsibility for maintaining the roster and assigning such employment will not be given to any officer eligible to work such employment. The office of the Administrative Services Commander will be responsible for ensuring that assignments are made as fairly and equitably as possible.

- G. **RECURRING/SEASONAL JOBS:** Recurring or seasonal jobs will be allowed. Staffing of these jobs can originate from the officer, the private employer or the rotating roster (in cases where the private employer has no preference). Each employee working a recurring or seasonal job must submit the required job request and update the request annually, as required by established policies.
- H. **SPECIFIC REQUESTS:** When an extra-duty employer requests a specific officer to fill a position, a reasonable effort will be made to honor the request, as long as the officer otherwise meets eligibility requirements.
- I. **ADDITIONS TO THE ROSTER:** Any Officer wishing to receive extra-duty employment through the rotating roster will notify the Administrative Services Commander's office by completing the appropriate form. Officers requesting inclusion on this roster do so with the understanding that three (3) refusals per quarter may result in removal from the roster for a period of six (6) months, after which the Officer may reapply.
- J. **REMOVAL FROM ROSTERS:** Officers involuntarily removed from the roster will be notified, in writing, of the decision and the reason for removal.
- K. **VOLUNTARY REMOVALS:** Any Officer asking to be removed from the roster must forward the request, in writing, via Chain of Command to his/her Captain, who will then forward the request to the Administrative Services Commander. The officer must continue to comply with the procedures established for the operation of the rosters until his or her request for removal has been approved.
- L. **RATES OF PAY EXTRA-DUTY EMPLOYMENT:** All extra-duty employment will comply with the rates of pay established by the Chief of Police. A three-hour minimum will be set for all Extra-Duty Employment that is incurred through the rotating roster. The three-hour minimum will be applied on a per-job basis.
- M. **SUPERVISION:** Any extra-duty job requiring more than five officers to work at any given time must include a minimum of one supervisor. The Chief of Police may set a higher rate of compensation for supervisors employed under this section. The higher rate will not apply unless the supervisor's duties as approved include supervision of more than five officers on the extra-duty job.
- N. **SCHEDULING DUTIES:** No employee will act as an agent of the extra-duty employer and receive financial benefit for scheduling employees to work for the private employer, unless those "scheduling duties" and compensation are specifically set forth and approved by the Chief of Police. No employee shall be responsible for firing or disciplining employees for the extra-duty employer. The scheduling of

employees for extra-duty employment must be based upon fairness and performance, never based on race, gender, affiliation, or any other non-job-related criteria.

9. **OFF-DUTY EMPLOYMENT:** Guidelines governing off-duty employment are less restrictive than those for extra-duty employment but are governed by the general procedures stated in this directive. Employees will not be approved to work any off-duty employment that would violate any Departmental directives, federal law, state law, or local ordinances.

A. No employee shall serve in a governing capacity, a board member, or a trustee, within an establishment or organization that sells, or manufactures alcoholic beverages licensed by the City of Huntsville or the State of Alabama. This restriction applies to both paid and volunteer services.

10. **BENEFITS:** Departmental employees may enjoy all benefits and compensations granted by secondary employments as long as they do not violate any laws or conflict with the guidelines established in this directive. Benefits, if offered, such as social security, retirement, deductions, etc., are between the employee and the secondary employer.

#### 11. GUIDELINES DURING SECONDARY EMPLOYMENT

A. Prior to performing any type of extra-duty employment, off-duty employment or volunteer work as defined in this directive, police employees will comply with the Departmental procedures for granting approval of such employment. This employment must meet the criteria set forth in this Written Directive and be approved via a properly submitted request. Failure to comply with the requirements of this written directive may result in loss of the privilege of secondary employment.

B. Personnel may not perform or solicit any extra duty or off-duty job while on duty with the primary employer.

C. Personnel on sick leave may not perform any secondary employment during any calendar day within which the officer is utilizing sick leave.

D. Personnel on workers' compensation leave will not perform any secondary employment that would violate workers' compensation laws.

E. Personnel will comply with all Departmental rules and regulations of the Huntsville Police Department and uphold the integrity of their profession at all times.

F. While performing extra-duty employment, officers will perform all normal duties arising from the exercise of their police power including incident/offense reports,

accident reports, arrest reports and booking of prisoners, etc. Officers will not request on-duty units to perform these functions.

- G. Uniformed Officers will comply with all Uniform and Appearance Regulations. If working in plain clothes, Officers will dress appropriately and according to reasonable standards of dress, appearance, and cleanliness.
- H. Regardless of whether the Officer is in uniform or civilian attire, the officer **MUST** properly identify himself or herself (including producing or displaying credentials when in plain clothes) when engaging in any exercise of sworn authority.
- I. It is the employee's responsibility to ensure that the Department knows when and where the employee is working an extra-duty job.
  - 1. Officers performing extra-duty assignments will notify Communications of the location, the nature, and the duration of their assignment upon arriving at the job site. Dispatchers will notify relief dispatchers of the extra-duty officers on assignments who may need assistance.
  - 2. Each officer's immediate supervisor must be kept advised of all extra-duty employment assignments and all hours worked in that capacity.
  - 3. Each officer will keep a log of hours worked at each extra-duty job. The log will include at a minimum the dates worked, the employer's name and job number, the location of the assignment, the times in and out, and the total hours worked.
  - 4. The log will be kept current and be made available for inspection by supervision upon request.
- J. Officers performing extra-duty assignments will be considered under the direction of the supervisor on duty in the area of the job site. Officers will be held responsible for notifying an on-duty supervisor of significant events, major crimes, serious injuries, and uses of force that may occur during or as a result of their assignment.
- K. Officers may participate in charity activities, with the following restrictions: Charity activities involving the wearing of the police uniform must be approved in advance by the Chief of Police via chain of command or designee. Officers may not solicit funds while in uniform unless given permission by the Chief of Police. When soliciting funds in plain clothes, no Departmental identification is to be used or shown unless an unrelated police action becomes necessary.

