

YORK-POQUOSON SHERIFF'S OFFICE	RULES AND REGULATIONS
SUBJECT: Off / Extra - Duty Employment	NUMBER: RR 1-11
EFFECTIVE DATE: January 1, 2023	LAST MODIFIED DATE: May 31, 2019
AMENDS/SUPERSEDES: RR 1-11, May 05, 2014	APPROVED: <u>R.G. Minter</u> Sheriff
VLEPSC: PER.04.01, PER.04.02	

1 **INDEX WORDS**

2
3 Courtesy Officers
4 Extra-duty employment, Law Enforcement related
5 Off-duty employment, Non-Law Enforcement related
6 Off-duty employment arrests
7 Liability/Indemnification/Insurance
8 Volunteering
9

10 **POLICY**

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12 The sheriff must ensure the continued efficiency and effectiveness of the Sheriff's Office while
13 simultaneously reducing or eliminating conflicts of interest. To this end, the sheriff shall manage,
14 according to whatever reasonable controls he deems necessary to restrictions or regulation of the
15 conduct of employees. It is the policy of the department, therefore, to prohibit off-duty and extra-
16 duty employment when it may impair efficiency or conflict with employees' duties and
17 responsibilities. To promote the welfare and good reputation of the York-Poquoson Sheriff's
18 Office, this order outlines procedures to ensure appropriate, accountable, and reasonable off-duty
19 and extra duty employment.
20

21 **PURPOSE**

22
23 To define regulations governing off-duty and extra-duty employment and conduct while employed
24 in those capacities.
25

26 **DEFINITIONS**

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28 • Employment
29 ○ Any work performed or services provided for compensation, a fee or otherwise,
30 including self-employment.
31 ○ Volunteering to perform official law enforcement duties for governmental, or other
32 agencies or organizations is prohibited, except as outlined on lines 356 through 368 of
33 this policy.
34
35 • Extra-Duty Employment
36 ○ Extra-duty employment, either paid through York County or directly by a private entity,
37 is an approved assignment outside of normal assigned duties that may require the use of

38 law-enforcement equipment or enforcement powers granted by the Commonwealth of
39 Virginia or the County of York.

40 ▪ See Section [15.2-1712](#), Code of Virginia.

41
42 ○ Assignments listed as “Extra Duty”, for sign up purposes, that are through a Mutual Aid
43 Agreement is not considered an extra duty assignment for the purposes of this policy.

44 ▪ Assignments due to a Mutual Aid Agreement request does not usually involve
45 compensation to the deputy from the requesting agency.

46
47 ○ Assignments that are scheduled due to a request from another governmental agency,
48 when the assigned deputies are being compensated by that governmental agency,
49 through the County of York, or by a private entity for the services rendered, is
50 considered an extra duty assignment for the purposes of this policy.

51
52 ● Off-Duty Employment

53 ○ Any non-law enforcement-related off-duty work for pay or other compensation.

54 ○ Off-duty employment does not typically require sworn law enforcement powers, or use
55 of issued law enforcement equipment, as a condition of employment and the work does
56 not provide implied law-enforcement service.

57
58 ● Courtesy Officer

59 ○ An off duty law enforcement officer who is employed by a property owner or
60 Management Company of an apartment complex who does not receive direct payment
61 for services but receives free or reduced rent for services rendered.

62 ▪ Courtesy officers may be required to use their law enforcement powers or
63 equipment in the performance of these duties.

64
65 ● Federal Service

66 ○ Members of the following are exempt from the off duty employment provisions of this
67 policy as it pertains to their federal service:

68 ▪ The National Guard, or

69 ▪ Armed Forces Reserve component,

70 ▪ Members of The National Disaster Medical System (NDMS) to include:

71 ➤ Disaster Medical Assistance Teams (DMAT)

72 ➤ Disaster Mortuary Operational Response Teams (DMORT)

73 ➤ Urban Search and Rescue Teams (USAR)

74 ➤ Any other form of Federal Service covered by the Uniformed Services
75 Employment and Reemployment Rights Act (USERRA)

76
77 **PROCEDURES**

78
79 ● Administration

80 ○ Extra Duty

81 ▪ The daily mission requirements and needs of the York-Poquoson Sheriff’s Office
82 take precedence over all extra duty assignments.

83 ▪ The Chief Deputy or his designee shall be responsible for the administration and
84 coordination of all extra duty assignments.

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- All extra duty assignments shall be approved by the Sheriff or his designee.
 - Deputy Sheriff's shall not solicit extra duty employment either on or off duty.
 - Deputy Sheriffs who receive requests for extra duty deputies shall forward the request to the extra duty coordinator for follow up and approval.
- Extra Duty Eligibility
 - Deputies are eligible to work extra duty overtime once they have:
 - ❖ Completed the Corrections Academy (Civil/Courts) and/or the Law Enforcement Academy, and
 - ❖ Completed an FTO Period and are approved by their Division Commander.
 - Extra Duty Assignments, Certification Requirements
 - Extra Duty assignments may be divided into categories of:
 - ❖ Law Enforcement, and
 - ❖ Civil/Courts.
 - Some extra duty assignments may require the Deputy to be Law Enforcement certified, while other extra duty assignments allow the Deputy to be certified in Law Enforcement or Civil/Court Security.
 - Some extra duty assignments allow a Deputy certified in only Civil/Court as long as a Deputy certified in law enforcement is also assigned to work the assignment.
 - Conduct while on Extra-Duty Assignments
 - Deputies working extra duty assignments shall conduct themselves according to the same standards as expected during normal duty assignments.
 - Extra Duty Approval Form
 - An [Extra Duty Approval Form](#), found in the forms folder in Power DMS, shall be completed for the following:
 - ❖ Extra duty assignments not compensated by York County or the York County School Division,
 - ❖ Extra duty assignments for other governmental agencies when the requesting agency is either compensating the deputy directly or through York County,
 - ❖ Private entity extra duty assignments.
 - An [Extra Duty Approval Form](#) shall be completed on the following frequency:
 - ❖ Recurring extra duty, no end date:
 - Prior to the commencement of the extra duty assignment.
 - ❖ Periodic recurring extra duty with a fixed date or dates:
 - Prior to the commencement of each extra duty cycle date.
 - ❖ Fixed date or dates extra duty
 - Prior to the commencement of the extra duty.
 - ❖ Recurring seasonal extra duty
 - Annually, prior to the commencement of the extra duty.

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- Publishing Extra Duty Assignments
 - All approved extra duty assignments shall be posted to the Sheriff's Office online sign-up program.
 - ❖ The posting shall list:
 - A description of the duty,
 - The certification needed to work the extra duty:
 - ✓ Law Enforcement Certified Deputy, or
 - ✓ Any Sworn Deputy.
 - Number of deputies needed,
 - Special requirements for the duty,
 - Uniform for the assignment,
 - Equipment to be used or available,
 - Pay rate for the assignment,
 - Method of pay for the assignment
 - ✓ Cash or check on site,
 - ✓ County paycheck.
 - How the duty shall be recorded for payment purposes
 - ✓ Paid on site,
 - ✓ Regular timecard, or
 - ✓ Blue timecard.
 - Extra duty may be in the form of:
 - ❖ Sheriff's Office sponsored duty,
 - ❖ York County sponsored duty, or
 - ❖ Privately contracted duty assignments.
 - Sheriff's Office and York County extra duty assignments are typically conducted within York County jurisdictional limits.
 - Sheriff's Office and County extra duty assignments include but are not limited to:
 - ❖ Beach Duty,
 - ❖ Tourism related events,
 - ❖ Other special events,
 - ❖ School functions,
 - ❖ Shopping center patrols,
 - ❖ Grant funded enforcement activities, etc.
 - The pay rate for Sheriff's Office and York County sponsored extra duty assignments shall be in accordance established pay rates not to exceed time and one half unless the extra duty is worked on a County recognized holiday.
 - The pay rate for DMV grant funded extra duty assignments shall be \$50.00 per hour (Effective 10/01/2022). Prior this date, DMV grant funded extra duty shall be paid at a rate of time and one half and double time for approved holidays.

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- Deputy Sheriff's with the rank of Captain or above may work Sheriff's Office and County extra duty assignments. However, due to being classified as exempt employees will not regularly receive pay for the assignment worked.
 - ❖ The Sheriff may on a limited case by case basis approve pay for exempt employees working extra duty assignments.

 - Privately contracted extra duty assignments may include but are not limited to:
 - ❖ Traffic control assignments,
 - ❖ Bingo hall and parking lot security,
 - ❖ Retail establishment security,
 - ❖ Financial institution security,
 - ❖ Property security,
 - ❖ Private event security,
 - ❖ Water Country USA in park and parking lot security,
 - ❖ Bush Gardens in park and parking lot security,
 - ❖ Special events in other jurisdictions, etc.

 - The pay rate for privately contracted extra duty shall be at the pay agreed upon by the contracting entity, and the Sheriff, but shall not be less than \$35.00 per hour.
 - ❖ Privately contracted extra duty paid through the County of York shall not be less than \$40.00 per hour.

 - Deputy Sheriff's holding the rank of Captain or above may work and be paid for privately contracted extra duty assignments under the following conditions:
 - ❖ The assignment requires a Command officer's presence.
 - If the privately contracted extra duty assignment requires the presence of a Command level officer the pay will, at a minimum, be the assigned command officer's York County calculated hourly pay rate.

 - ❖ The assignment is not filled or unable to be filled by lower ranking deputies.
 - The pay rate shall be the same as the regular extra duty rate agreed upon by the Sheriff or County of York.

 - Extra Duty Restrictions
 - Auxiliary Deputy Sheriff's may work Sheriff's Office and County extra duty assignments. They shall receive no pay for hours worked but shall receive credit for time worked toward their monthly hour's requirement.
 - Deputies shall not be permitted to sign up for, or shall be restricted from working, extra duty assignments when in the following situations:
 - ❖ Have not completed the required FTO certification period,
 - The Sheriff or his designee may waive this requirement on a case by case basis when the following are present:
 - ✓ The assignment requires two deputies working in close proximity, and
 - ✓ One of the assigned deputies is an FTO.

 - ❖ Does not possess the necessary law enforcement certification,

- 223 ❖ Extra duty assignment(s) time shall not exceed a total of 16 consecutive hours
224 worked when combined with normal duty and/or off duty employment time in
225 any 24 hour period.
- 226 ❖ During any period of time the deputy is in an paid on call status,
227 ❖ When suspended from duty, either with or without pay,
228 ❖ When the restriction is due to a disciplinary action such as failing to report to an
229 extra duty assignment(s).
- 230
- 231 ▪ Sick Leave
- 232 ❖ Deputies are prohibited from working extra duty assignments when on sick
233 leave for a personal illness or injury,
234 ➤ Deputies on sick leave due to a family member's illness or injury are not
235 restricted from signing up for or working extra duty assignments.
- 236
- 237 ▪ Light Duty
- 238 ❖ When on light duty, or off work due to a workers compensation paid injury,
239 deputies shall be prohibited from working any law enforcement related extra
240 duties.
- 241
- 242 ○ Off Duty Employment
- 243 ▪ The Administrative Division Commander is designated as the off duty employment
244 coordinator for the Sheriff's office to oversee adherence to all areas of this policy.
- 245 ▪ Deputy Sheriff's shall not solicit or apply for off duty employment while on duty.
- 246 ▪ Employees shall submit an [Off Duty Employment Request Form](#), found in the
247 Forms folder in Power DMS, to the sheriff ,or his designee, through the
248 Administration Division Commander for approval prior to commencing any off-
249 duty employment.
- 250 ▪ Employees shall not begin any off-duty employment until the Sheriff's or his
251 designees, written approval has been granted.
- 252 ❖ The request shall be filed in the employee's personnel file.
- 253 ❖ The approved request is subject to periodic review by the sheriff or his designee.
- 254 ➤ Employees shall communicate any changes in information contained on the
255 form to the Administrative Division Commander within two regular work
256 days of the change taking effect.
- 257
- 258 ▪ The sheriff may revoke permission to work off duty if the employee fails to perform
259 adequately on duty or receives formal disciplinary action.
- 260 ❖ To be eligible for permission to work off duty, employees must be performing
261 all duties to at least a satisfactory degree.
- 262
- 263 ▪ An employee engaged in any off-duty/extra duty employment may be called to duty
264 in any emergency.
- 265 ▪ Any conflict of interest arising between the Sheriff's Office and the off duty
266 employer is grounds for immediate revocation of the off duty employment.
- 267 ▪ The sheriff may disapprove any off duty employment that demeans the status or
268 dignity of the law-enforcement profession, or otherwise represents an initial conflict
269 of interest.

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- The following types of off duty employment are prohibited:
 - ❖ Working for a retailer that sells pornographic materials, or provides services of a sexual nature.
 - ❖ Working for a business that sells, manufactures, or transports alcoholic beverages as the principal business such as:
 - Bartender,
 - Bouncer,
 - Dancer.
 - ❖ Working at gambling or gaming establishments, not exempted by law.
 - ❖ Working as a tow truck driver or as a towing company employee on the Sheriff's Office tow list,
 - ❖ Working as a bill collector,
 - ❖ Working as a private bodyguard,
 - ❖ Working as a repossession agent,
 - ❖ Working as a private investigator,
 - ❖ Working as a process server,
 - ❖ Working as a taxi cab, Uber, Lyft, etc. driver,
 - ❖ Working as an armed security guard,
 - ❖ Working at any business that requires the wearing of a Sheriff's Office uniform.
 - ❖ Working for a business or labor group that is on strike.
 - ❖ Working for a business that is regulated or licensed by or through the Sheriff's Office.
 - ❖ Working for any business or person involved in personnel investigations, or any employment requiring the deputy to have access to police files, records, or CJIS information as a condition of employment.
 - ❖ Working for any business or person whose activities include case preparation for the court defense in any criminal or civil action.
 - ❖ Working for any business or person as a consultant where the following are required or possible:
 - Reviewing police reports or actions of members of or polices of other law enforcement agencies or providing an opinion regarding the same,
 - Testifying as an expert witness in contradiction to the prosecution of any case in any court of law or hearing.
 - Arrests made while engaged in extra-duty law enforcement-related employment shall be limited to felonies or criminal misdemeanors committed in the deputy's presence or a breach of the peace jeopardizing public safety.
 - ❖ See [RR 1-2, Rules of Conduct](#), for further details concerning off-duty arrests.
 - Off-duty arrests shall not be made when the deputy's actions are intended to further the interests of the deputy's off duty employer.
 - Employees shall understand that department liability protection does not extend to willful acts that cause injury or damage, or acts the deputy knew or reasonably should have known conflicted with department policy or the law.
- Apartment Complex Courtesy Officers

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- Accepting a position as a Courtesy Officer shall be considered off duty employment and is subject to the requirements, and restrictions of this policy.
 - Off Duty Employment Restrictions
 - Sick Leave
 - ❖ Sheriff's deputies on sick leave for a personal injury or illness are prohibited from working any previously approved off duty employment any days they are utilizing sick leave.
 - Sheriff's deputies on sick leave due to a family member injury or illness is not restricted from work off duty employment.
 - Light duty
 - ❖ Sheriff's deputies while in a light duty status are prohibited from working any previously approved off duty employment if the off duty job requirements are not within or exceed the restrictions of the injury or illness requiring the Sheriff's Office light duty status.
 - This restriction shall apply regardless if the injury was sustained in the line of duty or while off duty.
 - ❖ Sheriff's deputies found to be in violation of this policy may:
 - Be removed from light duty status and be required to use accrued sick and vacation leave or leave without pay until able to return to full duty,
 - Be subject to disciplinary action up to and including termination.
 - Workers Compensation
 - ❖ The light duty restrictions apply for deputy Sheriff's on light duty due to an in the line of duty injury and receiving any worker compensation benefits.
 - ✓ Deputy Sheriff's should be aware that working any off duty employment, while receiving any workers compensation benefits for a work related injury, which falls within or exceeds the restrictions of workers compensation claim could result in loss of workers compensation benefits and other actions.
 - ❖ Sheriff's deputies whose workers compensation benefits are cancelled due to a violation of this policy may:
 - Be removed from light duty status and be required to use accrued sick and vacation leave or leave without pay until able to return to full duty,
 - Be subject to disciplinary action up to and including termination.
 - Off Duty Employment Hours
 - No Sheriff's deputy shall engage in excessive off duty employment that prevents the employee from being properly rested prior to beginning any tour of duty.
 - Fatigued employees constitute a hazard for themselves and others, and may severely affect officer safety.
 - Off duty employment time when combine with extra duty and on duty time shall not exceed 16 consecutive hours in any 24 hour period.

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- Volunteering
 - While the Sheriff encourages Sheriff’s Office personnel to become involved with community based civic and religious organizations, Sheriff’s Office personnel are prohibited from soliciting deputies to perform official law enforcement related duties, for any organization, on a volunteer basis.
 - This prohibition is due to labor and pay requirements imposed under the Federal Fair Labors Standards Act.
 - ❖ This prohibition shall not preclude any Sheriff’s Office member from declining to accept or cash a paycheck received or donating the pay received back to a non-profit organization for working an approved extra duty assignment.
 - This policy does not prohibit Sheriff’s Office personnel from volunteering to perform other non-law enforcement related volunteer work.
 - Liability, Indemnification, Insurance
 - The Sheriff, County of York, the York-Poquoson Sheriff’s Office, and any of its insurance providers shall not be responsible for medical expenses incurred from injuries sustained while working in any off-duty employment.
 - The Sheriff’s Office recognizes that a deputy in law enforcement-related employment may undertake an action connected with the employment that the courts may construe as a law-enforcement duty, and therefore an extension of employment. Deputies are reminded that their off-duty and extra-duty performance must follow the same strict standards required for on-duty performance.
 - ❖ Off-duty and Extra-duty law-enforcement actions, whether for a private employer or not, must meet all the requirements of this manual.