

	Administrative General Order	2.14 Off-Duty Employment	ORIGINATOR/REVIEW Chief's Staff
	SUBJECT Virginia Beach Police Department General Order Chapter 6 – Constitutional Issues		DISTRIBUTION ALL
	CALEA: 22.2.4, 22.2.5		
BY THE AUTHORITY OF THE POLICE CHIEF: <i>PWN</i>			

Purpose:

To establish guidelines and parameters for members who wish to engage in employment outside the Virginia Beach Police Department (hereinafter referred to as VBPD or Department).

Definitions:

The following definitions are provided to assist in clarifying key concepts of this policy. The definition provided is specific to this policy alone.

Off-Duty Employment - For the purposes of this policy, it is also known as secondary employment is the practice of members of the police department providing approved services, in an off-duty capacity, to public and private employers external to the Police Department. The services may be law enforcement related or non-law enforcement related as set forth herein.

Law Enforcement Services - For the purpose of this policy, performing police services will include providing security, vehicle/pedestrian direction or control, or providing any other services that require use of Police Department equipment and uniform, or the exertion of their police authority.

Sworn Officer - An employee who has satisfactorily completed the prerequisites established by the Virginia Department of Criminal Justice Services (DCJS) to be DCJS certified as a law enforcement officer and has taken an oath of office pursuant to the Code of Virginia to uphold the laws of the Commonwealth of Virginia and the City of Virginia Beach. For the purposes of this policy the terms sworn employee, sworn member, and police officer will be considered synonymous and are used interchangeably.

Probationary Police Officer (PPO) - For the purpose of this policy, means all employees currently undergoing academic training in the Police Academy or field training in the Police Training Officer program who have not yet completed the prerequisites established by DCJS to be certified as a law enforcement officer.

Animal Control Officers - Are not DCJS certified law enforcement officers, but have the power to enforce state and city ordinances enacted for the protection of domestic animals.

Ancillary employee - Are not DCJS certified law enforcement officers nor are they animal control officers, but perform law enforcement community service functions and assist in the day-to-day delivery of police services. Ancillary personnel may be full time or part time employees of the Virginia Beach Police Department. Ancillary positions include: Forensic Services Technician, Community Service Officers (including, Marine Patrol Aides), Precinct Desk Officers, and School Crossing Guards. Volunteers serving in the role of Police Chaplain or Flight Officer are also considered to have ancillary status.

Civilian employee - Members of the Police Department who are neither sworn nor described as ancillary personnel.

Policy (CALEA 22.2.5 A, C, 22.2.4):

All personnel may engage in off-duty employment subject to the following limitations:

- A. Such employment shall not interfere with the employee's duties with the Department.
- B. The member's primary assignment or duties with the Police Department will always take precedence over a off-duty employment assignment. Members scheduled for off-duty employment who are directed by a supervisory member of this department to work overtime or are called back to work their primary assignment with the Department must cease their off-duty employment activities and report as directed. It is the member's responsibility to notify the off-duty employer or the Off-Duty Site Coordinator as appropriate to advise of their unavailability to work the off-duty employment assignment.
- C. All personnel shall submit an Off-Duty Employment Work Request (PD-51) for approval of off-duty employment to their current precinct/bureau commander, whose approval must be granted prior to engaging in such employment; in accordance with City of Virginia Beach Human Resources Policy 1.03, Employment in Second Jobs, which states "approval is based upon whether or not the secondary employment will impair the member's efficiency in his or her primary employment or create a conflict of interest." By submitting a request to work off-duty employment, employees are agreeing to abide by the conditions and limitations established by policy. Failure to do so may result in the employee's permission to work off-duty employment being rescinded. Permission to work off-duty employment must be approved annually and for consistency should coincide with the employee's annual evaluation.
 1. Non police service off-duty employment
 - a. Members interested in working off-duty employment that is not related to police services must complete a PD-51 annually on a job by job basis.
 2. Police service off-duty employment
 - a. Sworn Officers interested in working off-duty employment providing police services need only submit one PD-51 annually through their commanding officer.

- b. Once approved, the sworn officer's name will be posted by their command's designated administrator on an "Approved for Police Related Secondary Employment" list which will be maintained digitally by the Department and will be available for review by all members in a designated network folder.
- D. A Hold Harmless Declaration (PD-51B), except where noted in this policy, shall be required to be executed by all perspective employers who wish to employ VBPD sworn officers off-duty law enforcement.
 1. Hold Harmless Agreements must indicate proof of liability insurance coverage in the amount of \$1,000,000 or higher prior to approval being granted for the employment. The Hold Harmless Declaration (PD-51B) from the prospective employer will provide guarantees to indemnify and hold harmless the City of Virginia Beach, its agents and employees from any and all liability which may accrue as a result of the actions of said officers during such off-duty employment.
 2. The Commanding Officer of the geographic area of the prospective employment will review the application and ensure it is complete and meets off-duty employment guidelines. If multiple worksites are included and they are located in different precincts, a decision will be made which precinct will be the primary precinct for approving the hold harmless based on which precinct is the most affected. That precinct commander will share the approval documents with all affected precinct commanders. Approving commanders, or their designees, are encouraged to make personal contact with prospective employers and discuss expectations and limitations as they relate to the employment of off-duty sworn officers. If the employer has designated a VBPD member as a Site Coordinator for the scheduling of the detail, this member should be included in the discussion with the Commanding Officer or designee and the prospective employer.
 3. Once approved, the name of the employer will be posted by their command's designated administrator on an "Approved Secondary Employers" list which will be maintained digitally by the Department and will be available for review by all members in a designated network folder.
 4. Hold Harmless Declarations (PD-51B) must be renewed annually. For consistency it is preferred that annual renewals occur at the beginning of each calendar year. With the exception of the exclusions listed below, at no time is an employee to be permitted to work off-duty employment in the absence of a valid and active hold harmless declaration.
 5. Hold Harmless Agreements are required as follows:
 - a. All long term (five days or more in duration) off-duty police related employment by department personnel;
 - b. Short-term employment (five days or less) that is recurring;

6. Hold Harmless Agreements are not required for the following:
- a. Short-term employment (five days or less that is not recurring). See “Notice” below.
 - b. Off-duty employment with a department or division of the City of Virginia Beach and Virginia Beach City Public Schools.
 - c. Events permitted by the City that require the employment of off-duty sworn officers for security shall not be required to complete a hold harmless agreement unless otherwise required by City Code Section 4-1 (Permit for special events) or another city department or division.

Notice: While the proof of liability insurance coverage requirement can be waived by the employee on short-term employment (five days or less that is not recurring) with private entities, it is solely at the discretion of the officer hired to perform that work if they choose to waive this protection. Sworn officers should realize that waiving this coverage may leave the officer with no liability coverage or Worker’s Compensation coverage should a court determine the officer was not acting under color of law during any specified incident stemming from the off-duty employment that results in personal injury, property damage, or liability.

- E. Employees shall not engage in any employment or business such as bail bond agencies, or investigative work for insurance agencies, private guard services, collection agencies, for-hire tow services, or investigative work for attorneys.
- F. Employees are prohibited from working for businesses whose primary purpose is the sale of alcoholic beverages for consumption on the premises and will not involve themselves in the actual serving or dispensing of alcoholic beverages at other establishments. They are further prohibited from working as a bouncer; however, sworn officers may perform traffic control, crime prevention, and crowd control activities at city permitted special events.
- G. Employees are prohibited from working for a business, establishment, or building in which marijuana or marijuana products are sold or distributed. Marijuana products may include but are not limited to CBD oils or any of its derivatives.
- H. With regards to one time only private events where no hold harmless declaration is required and it is reasonably anticipated that a large crowd of people will be present (excluding public events hosted by a department or division of the City of Virginia Beach), Sworn Officers of this Department must have approval from the Commanding Officer of the precinct in which the event will take place. When determining whether or not permission for off-duty sworn officers to work the event will be granted, the Commanding Officer will set the minimum number of officers required, based upon the nature of the event and the anticipated number of people attending. At a minimum, two sworn officers will be required for any event that expects 100 participants. Additional staffing for larger crowds is at the discretion of the Commanding Officer.

- I. As noted in GO 2.05 (Conditions of Work), all employees are restricted to a maximum of sixteen (16) hours in a twenty-four (24) hour period and sixty-eight (68) hours in a consecutive seven (7) day period of total time worked in the capacity of a police officer or providing law enforcement services as defined by this policy without having to seek prior approval of a police supervisor. These limits include all time worked by the employee providing law enforcement services for both the City of Virginia Beach and any other external employer, to include if the employee is self-employed. The employee's immediate supervisor, or in their absence the on-duty supervisor in the employee's parent command, may authorize a temporary extension to these fatigue limits and approve the employee to work beyond the 16 hours per day / 68 hours per week limit as long as doing so does not create an unsafe situation for the employee, the City, or the community.
- J. Non-exempt sworn officers will utilize the PD-269 form to document and track all law enforcement services performed, regardless of whether the additional time worked occurred while performing their primary assignment or during an off-duty employment assignment. Supervisors will review all PD-269 forms completed by their subordinates to ensure compliance with these policies.
- K. For off-duty employment by a private entity (not a department or division of the City of Virginia Beach or Virginia Beach City Public Schools), sworn officers may not request that any special consideration be given to scheduling of the employee's regular duty hours. While the adjustment of the sworn officer's normal working hours to accommodate an opportunity to engage in off-duty employment for a private entity is prohibited, employees are authorized to utilize personal leave for this purpose. The granting of leave should occur at the beginning or end of the employee's shift. No request for mid-shift adjustments or leave will be granted. The decision on whether to grant the personal leave or allow the adjustment of schedules for those circumstances where such a practice is allowed (City permitted or VBCPS approved events) shall be made by the sworn officer's immediate supervisor after that supervisor has confirmed the employee's absence will not negatively affect department operations or cause the sworn officer's squad/unit to fall below accepted minimum staffing levels.
- L. While the off-duty employer who hires a department sworn officer to work for them has authority over the off-duty employee, there are limits to the activities that off-duty sworn officers should be performing while in police uniform. Generally speaking, sworn officers hired to work off-duty are tasked with providing site security or engaging in vehicle and pedestrian direction and control assignments. In most circumstances the performance of these types of duties is appropriate and in keeping the department's goal of creating a safe community. However, while in department uniform and engaged in off-duty employment, sworn officers are not authorized to perform duties that the public may see as unbecoming of a uniformed police officer or that tend to impede the sworn officer's ability to perform their official duties.
- M. Members of Special Investigations are prohibited from engaging in off-duty work providing police services, whether in uniform or in plainclothes.

Approval may be denied or revoked if it appears that the outside employment or interest might:

- A. Render the employee unavailable during an emergency to perform their primary assignment. At any time the City of Virginia Beach is under a declared state of emergency, all permissions to work off-duty employment will be revoked for the duration of the declaration unless, on a case by case basis, the employee's commanding officer has specifically granted permission for the employee to take part in the off-duty employment during the state of emergency.
- B. Physically or mentally exhaust the employee to the point that his or her performance may be affected. This policy, as well as VBPD General Order 2.05 (Conditions of Work), outline some of the conditions which the department considers the member's efficiency to be impaired.
- C. Bring the Department into disrepute or impair the operation or efficiency of the Department or its personnel.
- D. Conflict with General Order 1.05, Rule #36 (Gifts, Gratuities, Bribes or Rewards).
- E. Be a contributing factor in the employee failing to meet the obligations of, or performing their duties in an unsatisfactory manner, of either their full-time position or the off-duty employment. Documentation of excessive tardiness, missed work, or work performance that would violate any of the Department's rules and regulations as defined in GO 1.05, Department Rules, would support the revocation of a member's permission to work off-duty employment.

Eligibility and Responsibility of Officers (CALEA 22.2.5 B)

- A. Probationary Police Officers are not eligible to work off-duty employment providing law enforcement services.
- B. If an employee is absent from work due to being on sick leave, their permission to work off-duty employment is temporarily revoked until after the employee returns to work or until 24 hours after the beginning of the last work period missed to illness.
- C. Any permission granted to work off-duty employment will be temporarily revoked for personnel on injury leave or limited duty, suspension, or administrative reassignment, if such employment involves performing police services. Officers who are assigned to other than full duty status must seek permission of their Division Commander to be allowed to work any off-duty law enforcement services assignment while they are on such a restricted duty status.
- D. Employees shall not perform off-duty employment, regardless of whether it involves law enforcement services or not, while on injury leave or temporary limited duty that causes the employee to violate medical restrictions or limitations imposed to their regular duty assignment.

- E. During the performance of duties for the off-duty employer, and while performing duties under the authorities granted to a police officer, officers are subject to the directives and rules of the City of Virginia Beach and Virginia Beach Police Department in the same way they would be if they had been on-duty with the department at the time.
- F. Sworn Officers working during off-duty employment who take action that requires a physical arrest may, when conditions permit, and with the approval of an on-duty supervisor, turn the arrest over to an on-duty officer. If turning the arrest over is not possible, the officer working off-duty will be responsible for completing the investigation. If the investigation requires the sworn officer to work beyond the designated hours of the off-duty employer, then the officer will be considered in an on-duty (compensable) status by the Virginia Beach Police Department. Additionally, any time an off-duty officer working off-duty employment responds to a call from the E911 Emergency Communications Division, the responding officer will be considered to be in an on-duty (compensable) status. If a sworn officer finds themselves in a situation while working an off-duty assignment where they will be considered in an on-duty (compensable) status by the Virginia Beach Police Department, they will notify the on duty supervisor of their assigned command prior to securing from the current assignment/shift. Sworn Officers who perform duties such as issuing summons or parking tickets at the request of the off-duty employers are not required to relinquish these duties to on-duty personnel. Under no circumstances will the officer accept payment from the off-duty employer and the City of Virginia Beach for work performed during the same time frame that the action is taken.

Use of Department Equipment

Use of any non-issued departmental equipment (such as a department vehicle) for off-duty employment requires the approval of a supervisor. Non-issued departmental equipment will only be authorized for use when the equipment is essential to adequately and safely perform the duties associated with the off-duty employment assignment. Department vehicles will not be used solely as a means of transportation for the member to and from the off-duty employment location. These guidelines do not apply to officers who as a result of being in critical assignments are issued an approved take home vehicle. Prior to sworn officers reporting for off-duty employment where they will be utilizing non-issued departmental equipment, they will seek the permission of an on duty supervisor to utilize the equipment and will provide the following: hours being worked, location being worked and departmental equipment being utilized.

Supervision (CALEA 22.2.5 C, D, E)

- A. In all circumstances when a sworn officer is working off-duty in uniform, the sworn officer is required to notify the on-duty supervisor in the precinct where the off-duty work will be performed of their hours being worked and the location of the off-duty employment. The sworn officer will also supply the VB911 Emergency Communications Center with the location and hours to be worked. The off-duty sworn officer will be entered into the CADS system by using a unit designator of "X" (e.g. "221X") if the off-duty employment is city sponsored or "F" (e.g. "221F") for all other off-duty assignments. Upon completion of the part-time employment, the sworn officer shall notify the supervisor of the command where the off-duty employment took place that they have secured and any departmental equipment used has been returned. The sworn officer shall also notify VB911 Emergency Communications Center that they have secured from their off-duty employment.
- B. City sponsored events, including those events requiring a permit where more than six (6) off-duty police officers are required, and school administration events shall have a police supervisor at the rank of sergeant or above present and in charge of coordinating the activities. In the event no supervisor agrees to work the event in an off-duty capacity, the on-duty supervisor in the precinct in which the event is occurring will assume the responsibility of overseeing the event.
- C. In events where there are six (6) or more sworn officers working the same function (such as a football game or concert) it will be the responsibility of the supervisor or officer in charge, to notify VB911, the on-duty supervisor of the precinct where the work is being performed, and the Command Duty Officer, of the number of officers working. This can be accomplished by generating a line up (PD-246) and providing that electronically to the on-duty supervisor of the precinct in which the off-duty work is being performed, VB911 (ECCSLineups@vbgov.com), and the Command Duty Officer (PDCCDO@vbgov.com). Providing a copy of the PD-246 to each of these entities does satisfy the notification requirement. The off-duty supervisor will use a unit designator of "X" (e.g. "207X") if the off-duty employment is city sponsored or "F" (e.g. "207F") for all other off-duty assignments. All other sworn officers working that same assignment under the supervisor's direction are not required to have unit designators. The supervisor or officer in charge will also be responsible for notifying VB911 Emergency Communications Center and the on-duty supervisor of the precinct in which the off-duty work was performed that all personnel are accounted for and have secured at the conclusion of the event.
- D. Department supervisors employed in an off-duty capacity cannot delegate or mitigate their supervisory role or authority to an employee of lower rank, to include a junior officer acting as the Off-Duty Site Coordinator. This will not restrict Off-Duty Site Coordinators from developing and overseeing work schedules that include more senior officers, but when on-site and actively engaged in the off-duty assignment, departmental rank supersedes any perceived authority the Site Coordinator may have as a result of holding that position.

Off-Duty Employment Coordinator

- A. Each command will appoint a supervisor as the command's "Off-duty Employment Coordinator." The Coordinator will ensure that the Department's listing of sworn officers "Approved for Police Related Secondary Employment" is maintained and is up to date.
- B. Precinct Coordinator's will also ensure that the listing of "Approved Secondary Employers" is up to date and reflects all the eligible employers located within the precinct's geographic boundaries. This listing will include at the minimum: the name of the secondary employer, the name of the approving department commander, the beginning and ending date of the approval period, and the identity of the designated Off-Duty Site Coordinator if one exists.
- C. The listing of "Approved for Police Related Secondary Employment" and "Approved Secondary Employers" shall be uniform and standardized by all commands and will be centrally located via the department's intranet and available for review by all employees.

Off-Duty Site Coordinators

For the purposes of this policy, any sworn officer or supervisor that schedules, coordinates, and/or manages an off-duty detail for an outside employer, to include both public and private employers, will be considered the Off-Duty Site Coordinator. Site Coordinators are responsible for ensuring hold harmless declarations are filed and approved in a timely manner by the precinct commander responsible for the geographic area the employment is occurring. Not unlike a department supervisor, Site Coordinators are responsible to ensure that all department members employed by the off-duty employer are approved to do so and conduct themselves in a manner that is consistent with department expectations and in accordance with departmental rules and policies. Site Coordinators are responsible to ensure that all department sworn officers employed by the off-duty employer are hired to perform tasks consistent with the duties of a police officer and do not act in or perform tasks that may impede the officer's ability to perform their official duties. Site Coordinators must have the approval of both their parent command and the command where the off-duty detail is geographically located in order to act as the Site Coordinator for an off-duty detail. Considerations for approval include current assignment, performance, recent disciplinary action and the overall number of site-coordinator positions the officer currently holds. The time spent acting in the capacity of a Site Coordinator is considered off-duty employment by the agency and falls under the rules of conduct outlined in relevant policies. The time a Site Coordinator spends fulfilling their oversight duties will not be included in anti-fatigue time limits outlined in this policy and in GO 2.05 (Conditions of Work) unless that work is performed while the Coordinator is in uniform and/or at the off-duty worksite. Site Coordinators shall carry out site management duties during off-duty hours. It is permissible for employees to engage in "de minimus" use of on-duty time to read emails or make short phone calls that might be related to off-duty activity as long as the duration of time is limited to less than 8 minutes total within an employee's shift and is infrequent.