
Outside Employment Guidelines for Law Enforcement Agencies

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Since the introduction of modern policing in America, law enforcement has occupied a unique place among public service organizations. This largely stems from what society has come to expect from law enforcement officers.

The profession demands that they be prepared to exercise enforcement authority 24 hours a day, 7 days a week, although officers generally are scheduled and compensated for a specified duty period (usually 8- or 12-hour shifts). Few, if any, public service vocations share that attribute or require the bearing, attentiveness, and diligence exacted by law enforcement.

Despite these high demands, the police profession has never been noted for providing premium salaries to its line officers. To offset

the pay inequities, many officers supplement their incomes. In response, some law enforcement agencies have established policies regarding officer employment off the job.

This article discusses some of the factors that agencies face when attempting to regulate outside employment for their officers. It also suggests a set of procedures that administrators can follow to help ensure that part-time or off-duty employment does not interfere with the primary responsibility of law enforcement officers to serve their agencies.

RESPONDING TO A NEED

In recent years, two forces have led to a steady rise in the number of officers engaged in outside employment. Reduced public outlays have kept officers' salaries flat in many communities, forcing officers to seek additional income. At the same time, the rising fear of crime has led more businesses, citizens' groups, and other organizations to arrange for additional security. Many officers see the increased opportunities for off-duty security work as a way to supplement their incomes while performing work for which they already are amply trained.

Law enforcement agencies and municipalities can actually benefit from the trend of increased outside employment. The availability of such employment may reduce the continual push by individual officers, police associations, and collective bargaining groups to increase wages, salaries, and benefit packages.

Still, for individual agencies, failure to address outside employment as a priority policy issue can prove disastrous. The blessing of bountiful part-time and off-duty opportunities can indeed become a nightmare for police managers and administrators.

Through collective bargaining agreements and similar measures, some agencies already have lost regulatory authority in many aspects of officer conduct while their officers are engaged in off-duty work. As a result, these agencies have become effectively powerless to regulate the conditions under which officers work in off-duty capacities.

Yet, agencies continue to bear primary liability relating to officer conduct and shoulder the burden of providing workers' compensation

for injuries that may result from off-duty enforcement actions. Therefore, law enforcement agencies have a vested interest in establishing and periodically reviewing outside employment policies. Such an effort, regardless of its complexity, should be pursued with the assistance and guidance of a legal advisor.

CATEGORIES OF OUTSIDE EMPLOYMENT

To develop an outside employment policy, agency administrators first must decide which types of employment will be regulated. For the most part, outside employment opportunities fall into three categories: part-time employment, regular off-duty police employment, and temporary off-duty police employment. An agency should tailor its outside employment policy to address each of these categories.

Part-time

Part-time employment does not require use of law enforcement powers. In a broad sense, an officer who owns or operates any private business, works on commission, or receives compensation in any form from any person, firm, or corporation other than the department for the performance of nonpolice services is considered to be engaged in part-time employment. Examples include photography, property management, direct marketing, retail sales, and other commercial pursuits.

Regular Off-duty

Regular off-duty police employment is conditioned on the actual or potential use of law enforcement powers for an employer other than the officer's department for a continuous period of 30 days or more. Examples include working crowd control at amusement parks or providing security at apartment complexes, malls and shopping centers, financial institutions, schools, etc.

Temporary Off-duty

Temporary off-duty police employment is conditioned on the actual or potential use of law enforcement powers for an employer other than the officer's department for a period of less than 30 days. Examples include providing security at exhibitions, festivals, parades, construction projects, special merchandise sales, sporting events, and other similar of relatively short duration.

EMPLOYMENT CONDITIONS

Conditions of employment are, for the most part, general restrictions that state what an officer can or cannot do when engaging in part-time or off-duty work. The conditions also restrict the number of hours officers are permitted to devote to outside jobs and establish guidelines for wearing the department's uniform while engaged in off-duty employment.

General Restrictions

Final approval for any request to engage in outside employment should be placed in the chief's office. Officers requesting approval to engage in part-time or off-duty work also should be subject to certain policy restrictions. These restrictions not only protect the department but also help prevent conflicts of interest between an officer's professional status as an impartial public servant and those jobs that may tarnish this image or prejudice the officer's impartiality. The restrictions also ensure that officers remain both physically and mentally capable of performing all functions required of their primary employer, the police department.

Accordingly, the policy should expressly forbid officers from accepting employment that would constitute a threat to the status or dignity of law enforcement as a professional occupation. Examples include employment at establishments that promote pornography or obscenity, as defined by applicable statutes; where the principal business is the sale, manufacture, transport, or dispensation of alcoholic beverages; where the owners previously had been convicted of a felony; or where obvious potential for illegal activity exists.

Likewise, the chief should not approve employment requests that could pose a conflict of interest. Examples include employment that would require an officer to:

- * Work as a process server, reposessor, or debt collector
- * Conduct personnel investigations for the private sector
- * Conduct tasks in uniform that are not of a law enforcement nature
- * Assist others in preparing criminal or civil cases
- * Act as an independent contractor of police services.

Supervisors and managers should ensure that no approved off-duty

employment conflicts with official on-duty tours.

Administrators also should avoid setting precedent in scheduling official duty hours to accommodate individual officers' off-duty work commitments. Officers absent from duty because of illness should be temporarily restricted from engaging in outside employment. Additionally, administrators may consider denying off-duty employment to officers on probation as a result of a disciplinary action.

In the Longview, Texas, Police Department, officers working part-time or regular off-duty jobs are required to include the approximate duration of the job in the initial request for approval. Otherwise, it is not required by policy to inform the department when a job ceases.

Maximum Hours

To help ensure that officers remain physically and mentally alert while on duty, an outside employment policy should set a ceiling for the maximum number of hours they can work outside the agency. The Longview Police Department's policy generally restricts officers to 20 hours per week. According to the policy, officers should not work more than 14 hours in 1 day, including duty hours.

Uniforms

Officers performing law enforcement-related services as a condition of off-duty employment generally should be required to wear the department's uniform. Chiefs, however, may reserve the privilege to circumvent this stipulation when necessary. When employed in an off-duty capacity that requires the exercise of police powers, whether on a regular or temporary basis, officers should be allowed to engage only in the following types of activity: traffic control and pedestrian safety, crowd control, security, or routine law enforcement duties for public or private concerns.

COMPENSATION

Administrators should take into consideration the three categories of employment when deciding to institute a compensation standard. For example, there is little need to set a rate of pay for part-time employment because the exercise of police power is not at issue and a broad diversity of opportunities exists. The local consumer market

generally determines the profitability of a part-time enterprise. The agency's policy should, however, ensure that officer's business pursuits do not use the badge or the "color of office" to promote such a venture.

Likewise, regular off-duty police employment does not require that an agency set a minimum pay rate. In fact, the types of businesses offering regular off-duty police opportunities to officers in many cases supplement wage payment with compensation in some other form. For example, an apartment complex might offer a rent-free apartment to an officer as part of a compensation package for on-site security services. This and other factors related to long-term employment dictate that certain flexibility be granted both to officers and businesses in establishing a rate and method of payment.

By contrast, the abundant but often sporadic or seasonal nature of temporary off-duty police employment requires that agencies seriously consider establishing a standardized minimum pay rate for these types of employment opportunities. A standard pay rate for temporary off-duty police employment helps avert "under-cutting" practices and bidding wars among officers who might become overzealous in acquiring extra income. It also reduces the temptation on the part of any officer to assume the role of an independent contractor for off-duty police services. Such practices should be expressly prohibited by policy. Finally, a standard pay rate enables businesses or organizations that want to hire off-duty officers for security purposes on a short-term basis to pre-plan their expenses and ensures that the minimum rate of compensation for officers working off-duty remains competitive.

The authority to set a minimum compensation rate for temporary off-duty employment should be placed with the office of the chief. The established rate should be commensurate with the standard overtime rate. If ranking officers are eligible to work temporary off-duty jobs, a standard rate can be established by averaging the overtime rates of all participating ranks.

APPROVAL PROTOCOL

Department administrators should develop and maintain approval request forms for officers interested in engaging in part-time or off-duty employment. After completing the forms, officers should route them through the chain of command for final approval.

The outside employment policy should include a formal appeals process for cases where a request is rejected at the supervisory or mid-management level. However under no circumstances should an officer be allowed to begin working outside the agency prior to final approval by the chief or the officer given this responsibility. The decision regarding an officer's request for outside employment should be final.

Requests for approval should contain the following information:

- * Date of request
- * Location of employment or event
- * Telephone number of employer or business
- * Description of duty requirements
- * Clothing to be worn (uniform or plain clothes)
- * Name of person in charge
- * Date(s) and time(s) of employment
- * Category of employment
- * Current duty assignment, shift, signature, and identification number of officer requesting outside employment.

Any additional information relevant to the request should be submitted in writing along with the form.

SUGGESTED PROCEDURES

Part-time Employment

For officers engaged in parttime work, agencies should review information annually that relates to the business, service, or employment. A file containing the officer's request and updated information should be maintained by the department, under the control of the chief. The officer should report any material change of business or employment functions within 10 days by filing a new request. Unlike officers engaged in off-duty police employment, officers injured while working part-time might not be protected by the agency's workers' compensation coverage.

Regular Off-duty Police Employment

Officers engaging in regular off-duty police employment should submit yearly updates and file new requests in the event of substantial duty changes. The agency should maintain a separate file for requests of

this nature because these assignments involve the exercise of police power and authority. Agency administrators should keep in mind that should an officer engaged in regular off-duty police employment be injured while exercising police powers, the agency might be responsible for providing workers' compensation coverage.

Temporary Off-duty Police Employment

All requests for temporary off-duty police employment made by outside concerns or by sworn personnel should be channeled to a centralized location in the department as designated by the chief. In many instances, organizations sponsoring events such as festivals or concerts will ask the department to provide security. Ideally, the chief should appoint a command-level officer or division manager to coordinate all requests for temporary off-duty police employment.

The coordinator should determine if requests are acceptable and do not conflict with existing restrictions and directives and decide on the number of officers, including supervisors, needed for the assignment. The decision should be based upon the type of event, expected attendance, availability of alcoholic beverages, traffic control problems, etc.

The coordinator also needs to devise a system to post approved assignments in advance. This system should provide equal opportunity for personnel to sign up for job openings.

When possible, the coordinator should honor an organization's request for specific officers. Likewise, officers who initiate an acceptable assignment should be allowed to work the event.

The Longview policy generally requires that businesses or organizations provide at least 1-week advance notice to ensure that officers have an adequate opportunity to review and sign up for temporary off-duty jobs. Under no circumstances, however, does the department assume responsibility for guaranteeing coverage of off-duty employment requests with the possible exception of certain events held at the city's activity complex.

PUBLICIZING THE POLICY

The procedures established by an agency's outside employment policy should be articulated clearly and distributed to all affected

employees. The Longview Police Department's policy regulating outside employment is included in the department's General Orders Manual, which is provided to every employee upon joining the agency.

CONCLUSION

Outside employment is a major issue for line officers and administrators in many law enforcement agencies. As more officers decide to supplement their primary income through part-time or off-duty employment, agency administrators often find themselves making ad hoc decisions concerning each outside employment request.

However, the economic realities facing departments and individual officers alike dictate a more proactive approach. Modern administrators should recognize these realities and embrace the overall benefits that a thoughtfully implemented outside employment policy offers to an agency. A well-managed policy can lead to fewer officer demands for salary and benefit increases, while it enhances community support through increased police visibility. Such a policy also can improve morale by letting officers know that within certain parameters, the agency hierarchy supports their efforts to supplement their income.

Just as important, though, a well-managed outside employment policy serves to protect the community and the agency, as well as individual officers. By taking an active role in setting standards for outside employment, law enforcement agencies can ensure that those standards remain high.

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