

**GENERAL ORDER**  
FAIRFAX COUNTY POLICE DEPARTMENT



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SUBJECT: NON-REGULAR EMPLOYMENT	NUMBER:	340
CANCELS ORDER DATED: 04-1-13	DATE:	10-1-13

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I. PURPOSE

This policy is issued for the purpose of defining and establishing regulations pertaining to non-regular employment.

II. POLICY

Employees of the Fairfax County Police Department shall be permitted to engage in non-regular employment activities to the extent such activities:

- Enhance public safety and further the mission of the Department.
- Do not violate the Virginia State and Local Government Conflict of Interests Act (*Code of Virginia* Title 2.2-3100 thru 3127), or otherwise conflict with the responsibilities or duties of an employee of the Fairfax County Police Department.
- Are in compliance with the administrative regulations, General Orders of the Department, and applicable County regulations and codes.
- Are consistent with the training and legal authority of the employee.
- Does not adversely affect the on-duty efficiency of the employee.

III. DEFINITIONS

- A. General Off-Duty Employment: Any employment during off-duty hours that is not dependent upon the uniform and/or authority granted to the employee by the Commonwealth of Virginia or the County of Fairfax. This employment will not require the use, or potential use of law enforcement powers by the off-duty employee.
- B. Secondary Law Enforcement Employment: Non-regular employment compensated by a vendor other than the County of Fairfax (to include hours worked for bartered housing) which may require the employee exercising

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their law enforcement authority granted by the Commonwealth of Virginia and the County of Fairfax.

- C. Departmental Overtime: Is incurred by an employee as a direct result of the employee's duty to complete a critical work assignment (e.g., mandatory shift extension, court attendance for official duties, call back, and other emergency related events).
- D. Supplemental Overtime: Assignments for which employees receive monetary compensation from the County of Fairfax in order to provide police services to other County agencies or to the Police Department. This type of overtime is voluntary (e.g., backfill staffing, School Board events, etc.). All supplemental overtime shall be regulated by this policy.
- E. Police Service Area of Fairfax County: The area located within the boundaries of Fairfax County, excluding the area within the boundaries of the cities of Fairfax and Falls Church and the towns of Herndon and Vienna.
- F. Training Period: That period of time during which an employee is attending the Fairfax County Criminal Justice Academy for basic law enforcement training or is working under the direct supervision of a field training instructor.
- G. Employer Permit: A permit of specific duration, not to exceed 24 months, granted to an employer by the Police Department, to allow authorized employees of the Police Department to work in a non-regular capacity. Upon issuance of the permit, the premises of the applicant shall be deemed an authorized work location for the purpose of this policy.
- H. Employee Permit: A permit which may be granted by the Police Department, upon application of an employee, to perform non-regular employment.
- I. Rest Period: A period of time not less than eight (8) consecutive hours, when an employee is free from any form of employment. (e.g., regular work period, general off-duty employment, secondary law enforcement employment, departmental overtime, or supplemental overtime).

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- J. Any 24-Hour Time Frame: A 24-hour time frame is based upon a sliding scale which begins whenever an employee starts any form of regular or non-regular employment.
- K. Flex Time: With supervisory approval, employees may flex their work schedule as long as the number of hours worked are within the FLSA threshold hours (80.5 hours per pay period for police officers and animal control officers and 40 hours per week for other employees). For example, an 8-hour employee left 2 hours early on Monday, then worked 1 hour later on Tuesday and 1 hour later on Wednesday to reach 40 hours for the work week.
- L. Regular Work Period: For law enforcement personnel, it shall be 14 consecutive calendar days with the hours varied, depending upon shift schedule. For all other employees, it shall be 40 hours worked or on paid leave within a seven consecutive calendar day period. The schedule of hours for the regular work period will be set by the Chief of Police.

IV. REGULATIONS

The following regulations are applicable to all non-regular employment:

- A. No form of employment will be permitted if it constitutes a conflict of interest as defined by Fairfax County Personnel Regulation 4.16 or the *Code of Virginia* Title 2.2-3100 through 3127, State and Local Governments Conflict of Interests Act.
- B. Police recruits, officers and other employees shall not work any form of general off duty, supplemental, or secondary employment during their initial training period or during any period in which their law enforcement powers are suspended. However, officers on restricted duty or modified restricted duty may be granted permission to work certain forms of non-regular employment from the commander of the Administrative Support Bureau or the Internal Affairs Bureau on a case by case basis.
- C. Sworn and civilian first-line supervisors shall not work supplemental overtime assignments in place of patrol officers or police citizen aides (e.g., patrol officer). Exceptions to this regulation shall only be made with the

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approval of the Chief of Police, and when staffing by non-supervisors is not possible.

- D. The total number of regular duty hours, supplemental overtime, and secondary employment combined shall not exceed 120.5 hours in any pay period.
  
- E. With the exception of departmental overtime, employees shall not work more than 16 hours within any 24-hour time frame. The 16 hour rule does not reset until the employee has completed at least 8 consecutive hours (rest period) off from all employment activities. The 16 hours includes any combination of regular hours, secondary employment, supplemental overtime, and scheduled court attendance (on overtime) which are assigned by a supervisor. Approval to exceed these limitations shall only be granted by a commander or a duty officer and such approval shall be documented and forwarded to the affected employee's commander. Commanders shall not grant blanket exceptions and approval must be sought in each case. The following overtime is not included in the 16 hour restriction: departmental related overtime and court dates such as preliminary hearings, Circuit Court, and subpoenas on non-scheduled court dates. Court attendance (on overtime) which is scheduled in advance by the employee's supervisor shall be included in the 16 hour per day restriction. To allow employees the opportunity to schedule supplemental and secondary employment assignments during periods of scheduled court dates and remain within the 16 and 120.5 hour limits, a scheduled court date shall be counted as 2 hours, regardless of the actual time spent at court. Unscheduled court appearances such as preliminary hearings, Circuit Court, and subpoenas are not counted against the 16 or 120.5 hour rules.
  
- F. When an employee is about to exceed 16 hours worked within a 24-hour time frame, a first line supervisor shall be notified. If the employee is currently in court and about to exceed the 16 hour rule, the employee is not required to notify a supervisor until court has concluded. This notification is only required if the employee is to report to any form of employment without completing eight consecutive hours of rest. The supervisor shall review the circumstances surrounding the hours worked and brief either the employee's commander or a duty officer. Due to officer safety concerns, authority to exceed 16 hours worked can only be granted by a command level officer. The notified commander shall ensure officers who have worked

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more than 16 hours in a 24-hour time frame receive adequate rest prior to returning to work any form of employment. This may be accomplished by the use of flex time with due regard for any hardship the adjusted hours may cause.

- G. All employees must have an uninterrupted, eight-hour rest period within every 24-hour time frame. Exceptions can be made only with commander approval on a case by case basis.
- H. Employees shall not work more than 12 consecutive days. This shall include regular duty, supplemental overtime, secondary employment, and/or any combination of such days. Exceptions to this regulation may be made by the Chief of Police.
- I. Secondary off-duty law enforcement employment is restricted to the police service area of Fairfax County.
- J. Persons above the rank of second lieutenant shall not engage in secondary law enforcement employment without the specific approval of the Chief of Police. Requests for exceptions must be documented in a memorandum and forwarded through the requestor's chain of command.
- K. Organizations employing five or more officers for secondary or supplemental employment assignments during the same time period and at the same site shall be required to hire at least one first line supervisor in addition to the officers. An additional supervisory officer shall be required for each multiple of five officers assigned to such sites.
- L. The minimum salary required for officers working secondary employment assignments shall be \$40.00 per hour. Supervisory or command personnel shall receive the same rate of compensation as officers at the same work location. Supplemental overtime assignments, and any other overtime where compensation is through the County payroll system, will be based upon the employee's regular overtime rate, or a designated pay rate for the individual assignment (e.g., school functions, special events, direct billing, etc.).

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- M. Serving as an employment agent and/or receiving compensation for procurement of non-regular law enforcement employment is prohibited and may constitute a violation of the *Code of Virginia*.
- N. No employment can be authorized which would conflict with the responsibilities or duties of a Department employee.
- O. Employees shall not wear their Department uniform or insignia for any general off-duty employment assignment.
- P. Whenever an employee utilizes sick leave for personal illness, they are prohibited from working any supplemental or secondary assignments, regardless of funding, for that 24-hour period (e.g., an officer working 1930-0700 shift calls in sick for a personal illness; the officer is then prohibited from working any supplemental or secondary employment until after 1930 hours the next day, regardless of whether it is a scheduled work day). Any employee who misses an assignment due to illness must report the fact immediately to the on-duty supervisor responsible for the district the employment site is located. Furthermore, employees who utilize sick leave which causes them to miss an overtime assignment shall notify the employer of the illness and whether the assignment will be covered. These notifications shall be documented by the employee in a memorandum and forwarded to the station commander responsible for the overtime site.
- Q. Any time an employee is recalled from a secondary employment assignment, the employee will be compensated as "call-back" in accordance with the Department's Payroll Manual. When that employee is receiving compensation from Fairfax County, all pay from the secondary employer will stop. It is the employee's responsibility to notify the secondary employer of the adjusted hours that were worked to ensure the appropriate compensation is received.
- R. At no time will an employee be allowed to take any sort of leave in order to work an overtime assignment when the initial funding source is the Police Department (i.e., an officer assigned to patrol duties at Mount Vernon takes annual leave to work patrol duties at the Mason District Station). This provision does not prohibit officers from utilizing approved leave to work an assignment in which the original funding source is not the Police

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Department, including, but not limited to the Fairfax County Public Schools and the Virginia Department of Transportation.

## V. NON-REGULAR EMPLOYMENT MANAGEMENT

### A. Commander Oversight

1. Commanders shall ensure a non-regular employment coordinator is designated and that equitable sign-up procedures are established at the respective command.
2. Division/Station Commanders shall:
  - a. Utilize the authorized secondary employer permit InfoPath form for management of employer permits. The InfoPath form is accessible in the Document Center of the BLUENet within the folder for Non-Regular Employment.
  - b. In the event that a prior application has been denied, the division/station commander must consider the reasons for the prior denial and any additional information before granting a permit application.
  - c. Ensure the accurate and complete storage of approved secondary employment information of both employers and employees and update when changes occur.
  - d. Ensure that a copy of an approved employee permit is placed in the employee's division personnel file.
  - e. Conduct a quarterly audit of all employer permits and ensure that current division sign-up procedures are in compliance with this General Order.
  - f. Perform a visual site survey of each potential location of secondary employment. This function may be delegated to a first line supervisor.

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B. Sign-Up Procedures

1. Secondary employment and supplemental overtime sign-up will occur at each division on the 15th of every month at a time designated by the division commander. The departmental sign-up policy permits employees under the rank of first lieutenant to sign up at their assignment on the 15th of each month.
2. Employees are only eligible to sign up for two non-regular employment assignments the first time through the process and one assignment each subsequent rotation. This process continues until either all assignments are filled, or the employee wishes to add no further assignments. On the 20th of each month, vacant secondary and supplemental assignments shall also be made available to all qualified employees regardless of their duty assignment. On occasions where an approved assignment is made available after the designated sign-up date, commanders shall ensure sign-up is distributed in an equitable fashion.
3. Employees who wish to work secondary law enforcement employment or supplemental overtime shall indicate their commitment to work such an assignment by placing their name on a Station Sign-Up Form (PD 197). The following rules apply to overtime sign-up:
  - a. An employee who signs up to work a non-regular employment assignment shall be subject to regulation 201.11, Reporting to Duty. These functions are considered a duty assignment.
  - b. An employee shall not sign up another employee for a non-regular employment assignment without the specific approval of a commander. Commanders may establish a standing station policy to govern employees signing up for officers working the street or on leave during the designated sign-up period.
  - c. An employee may cancel a non-regular employment assignment no less than 7 calendar days before the event. The employee shall place a single line through their name on



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the sign-up sheet with their initials and date beside their name. When this is accomplished, the slot is then available for any eligible employee.

- d. If an employee desires to cancel a secondary employment or overtime assignment within 7 days of the event, it shall be the responsibility of the employee to find a replacement for the assignment. When a replacement is found, the employee shall note the date and reasons for the change on the sign-up form, followed by their initials. Should no replacement be available and the assignment cannot be covered, the employee shall notify the employer as soon as possible, but not less than 24 hours prior to the scheduled reporting time that the assignment cannot be covered. This notification process shall be documented and forwarded to the commander of the district responsible for the assignment.
- e. An employee's excessive deletion of their name from the sign-up forms, or a significant pattern of an employee's failure to work their scheduled overtime assignments, may be cause for the suspension or revocation of their work permit.
- f. Employees who work secondary law enforcement employment shall complete and submit a Secondary Employment Overtime Report Form (PD196). The completed form shall be retained at the employee's work location (district station or division) for a period of two years for auditing purposes. The employee's immediate supervisor shall initial the form after review. The purpose of this reporting procedure is to provide first line supervisors with a method to determine the amount of additional hours an employee is working, and to assist in monitoring compliance to this policy. The employee shall be responsible for ensuring that all hours are reported accurately and that the form is completed prior to submission to the first line supervisor.
- g. Employees who work supplemental overtime must reflect the actual hours worked for the assignment and complete the "notes" section in TeleStaff.

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C. Permit Administration

1. The administration of non-regular employment is through a system of employer and employee permits.
2. All employees engaging in secondary law enforcement employment shall be required to complete an Employee Permit Application (PD-164A). Commanders have the authority to revoke any employee's non-regular employment privileges to work any form of employment whenever the employee's non-regular employment conflicts with on-duty performance or a violation of Department regulations has occurred. If a situation arises where an employee has had their non-regular employment privileges suspended or revoked, the employee shall resubmit a new Employee Permit Application (PD-164A) before engaging in any future non-regular employment.
3. Prospective employers for secondary law enforcement employment, to include bartered housing arrangements, are required to submit a permit application to the district station commander responsible for the geographic area in which the work site is located. All employers, except nonprofits, must provide worker's compensation insurance to cover officers working at the described work location. This is to include those employers offering reduced or free housing. A copy of the worker's compensation insurance policy or documentation proving the employer is a nonprofit shall be attached to the employer application.
  - a. Employer permits should be received at least 14 days prior to the initial date of employment. Commanders may choose to waive this requirement on a case by case basis.
  - b. Employer permits are valid for a period of 24 months from the date of issue.
  - c. There is no fee for the issuance of employer permits.

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- d. No non-regular employment request shall be granted guaranteeing police personnel resources without approval of the Chief of Police or a Deputy Chief of Police.
- e. The requirement for a permit application may be waived to provide security for sensitive sites in the event of a crisis or other emergency. These assignments shall generally be of short duration, and shall be strictly limited to the term of the emergency.
- f. Commanders may designate certain employer locations requesting traffic control duties as requiring police officer staffing only. This decision must take into account the safety of the employees as well as the employer's expectation of the services to be received. If the location permits the employment of crossing guards or traffic enforcement officers, those employees should be eligible to work the assignment.
- g. If a non-regular assignment is cancelled with less than a 24-hour notice by the employer, all employees who were scheduled to work the assignment shall receive 2 hours of compensation. If the assignment is cancelled and the employee has arrived at the location, the employee shall receive 4 hours of compensation. In either situation the employee will be compensated by the non-regular employer and never eligible to receive compensation which would be greater than if the assignment had been worked. At no time will employees be allowed to receive double compensation from both a non-regular employer and the County. An example would be an officer takes leave during a shift to work an overtime assignment which gets canceled as the officer arrives on scene. The officer receives 4 hours compensation from the off-duty employer due to the late cancellation. The officer cannot cancel their approved leave and return to duty until after the 4 hours for which he was compensated for has expired.

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- h. A commander may cancel the employer permit when the assignment no longer furthers the Department's mission or the employer fails to comply with the application mandates.
- 4. The following are examples of secondary law enforcement employment that may be considered for approval:
  - Crowd control
  - Assignments which require traffic control on state highways
  - Housing/apartment complex security assignments
  - Shopping center security assignments
- 5. The following types of employment are prohibited unless specifically approved by the Chief of Police:
  - Those assignments which could cause a negative perception to be placed upon the Department or on the individual officer.
  - Providing security for the interests of a private business or location which does not directly benefit the Department or community. Commanders may, however, approve short, limited-term duration secondary law enforcement employment at these locations in specific response to problems which affect the surrounding community or public safety.
  - Any location which has a permanently standing alcohol beverage license (bars, clubs). This provision does not restrict bureau commander approval for the employment of off-duty police officers at fairs and community events in which alcohol could be sold and consumed
  - Personal protection/bodyguard.
  - Process server, bill collector, or repo agent.
  - Private parties.

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- Working directly for a private security company.
  - Working in any capacity that involves private investigation or any type of investigative work, whether on a self-employment basis or for attorneys, insurance companies, or security firms, in Fairfax County.
6. Police Department employees who engage in general off-duty employment, including personal business ventures, shall submit a memorandum to the Chief of Police requesting approval to engage in such employment or self-employment. The memorandum shall describe in detail the nature of the employment or self-employment, including job duties; the location of such employment or self-employment; the hours of work which will be required or expected; and an affirmative statement that the employee has read and understands the contents of all General Orders that may be applicable to such employment. Once the Chief of Police has approved or denied the request, the original memorandum shall be sent to the Personnel Resources Division, to be enclosed in the employee's permanent personnel file and a copy shall be sent to the employee's commander. The commander will ensure a copy is provided to the requesting employee. If at any time the employment alters from the original memorandum, the employee shall submit a new memorandum for approval. Commanders may terminate the employee's ability to work general off-duty employment at any time the employment conflicts with the Department's mission. Employees shall also promptly submit a memorandum if they discontinue such employment or self-employment.

D. Worksite Equipment

1. The wearing of plainclothes on any secondary law enforcement employment assignment is prohibited without the direct approval of the Chief of Police or bureau commander. Employees scheduled to work secondary law enforcement or overtime shall wear their uniform and be equipped the same as they would be for a regular patrol duty assignment. The Chief of Police or bureau commander may grant approval for the wearing of business attire at certain locations that do

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not pose a high degree of enforcement potential. Requests for approval shall be submitted in writing and forwarded through the appropriate station and bureau commanders.

2. Employees shall have in their possession, while working any form of secondary or supplemental employment, all the necessary equipment needed if they are recalled to full duty.

E. Bartered Housing

1. Non-regular employment shall include bartered or free housing made available to an officer in exchange for the officer's presence or other services related to his employment as a Fairfax County police officer. Reduced housing costs received in return for services by sworn officers must meet the minimum threshold of the hourly rate of payment (i.e. the monetary amount by which the rent is reduced divided by the number of hours worked in return cannot equal less than \$40.00 per hour). Any officer who resides in reduced housing based on their employment as a Fairfax County police officer shall live at the address as their primary residence and reflect the location in their contact information in FOCUS. Officers are prohibited from sub-leasing any portion of a bartered housing location.

VI. REFERENCES

Fairfax County Personnel Regulations, Chapter 4

Fairfax County Police Department Payroll Manual

VII. LEGAL REFERENCES

*Code of Virginia*, Title 2.2-3100 through 3127, State and Local Governments Conflict of Interests Act

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VIII. ACCREDITATION STANDARDS REFERENCES

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PER.

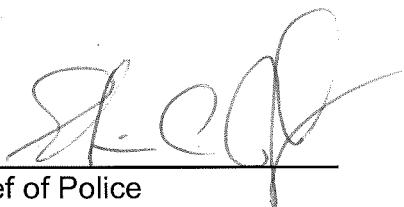
04.01


04.02

This General Order becomes effective October 1, 2013, and rescinds all previous rules and regulations pertaining to the subject.

ISSUED BY:

APPROVED BY:

  
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Chief of Police

  
\_\_\_\_\_  
County Executive