

Outside (Off-Duty and Extra-Duty) Employment

815.1 VERSION

| Review Date | Effective Date | Approving Authority |
|-------------|----------------|--------------------------------|
| 08/03/2021 | 7/9/18 | Kelley Warner, Chief of Police |

815.2 POLICY AND PURPOSE

This policy provides guidelines for department employees who seek to engage in authorized off-duty employment or extra-duty overtime. The Harrisonburg Police Department will permit employees to work approved outside employment that does not present a conflict of interest; does not violate any rules, regulations or procedures; and does not impair the employee's job performance. Working outside employment is a privilege that can be revoked at any time by the Chief of Police or designee. Employees who do not abide by these policies and procedures may have the privilege of working outside employment revoked in addition to any other sanctioned disciplinary process.

Approval of off-duty employment or extra-duty overtime shall be at the discretion of the Chief of Police in accordance with the provisions of this policy. Failure to obtain prior written approval for or engaging in off-duty employment or extra-duty overtime that is prohibited by this policy, may lead to disciplinary action.

815.3 ACCOUNTABILITY STATEMENT

All employees are expected to fully comply with the guidelines and timelines set forth in this policy. Responsibility rests with the supervisor to ensure that any violations of policy are investigated and appropriate training, counseling and/or disciplinary action is initiated. This directive is for internal use only, and does not enlarge an employee's civil liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

815.4 DEFINITIONS

Exchange of Services - A contract type where no money exchanges hands; wherein two parties enter into an agreement to exchange (trade) services in their respective domains.

Extra-Duty Assignments - Any extra assignment that is conditioned on the actual or potential use of law enforcement powers as a Harrisonburg Police Department officer. This falls under two distinct categories: 1) Private Contract - an assignment wherein the officer is compensated directly by a private organization, individual, or entity; and 2) City Contract - an assignment wherein the officer is compensated by the Department (compensated at the time and a half rate). Extra-duty employment will be approved, scheduled, and administered by the Harrisonburg Police Department through the Special Operations Commander or designee.

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Off-Duty Employment – Off-Duty jobs or services performed by employees of this department for another employer, organization or individual who is not affiliated directly with this department when wages, compensation or other consideration for such duties or services is received. This employment may or may not require the use or potential use of law enforcement powers, (i.e.; security guard, part-time police officer at another agency, etc.), however, it is not done as a Harrisonburg Police Department officer, or utilizes its' equipment or resources.

Off-Duty Employment also includes duties or services performed by those employees who are self-employed and receive compensation or other consideration for service, products or benefits rendered.

815.5 OFF-DUTY EMPLOYMENT

815.5.1 REQUEST AND APPROVAL

Employees of the Harrisonburg Police Department shall obtain written approval from the Chief of Police or the authorized designee prior to engaging in any off-duty employment.

Employees must submit an application (59-Employee Application for Off-Duty Employment.pdf) for any off-duty employment to his/her immediate supervisors. The request form will then be forwarded through the chain of command to the Chief of Police for consideration. If the employment is with another law enforcement agency, the officer shall submit the (59B-Agreement-Off Duty Employment.pdf) to the Chief of Police.

If approved, the employee will be provided with a copy of the approved request form. Employees seeking to continue outside employment with law enforcement must submit a new request annually.

815.5.2 PROHIBITED OFF-DUTY EMPLOYMENT

The following types of employment are prohibited unless specifically approved by the Chief of Police or his designee:

- (a) Protection of management property during strikes, labor disputes, demonstrations, picketing, etc.
- (b) Employment at any event wherein illegal activities are being conducted, i.e., gambling, prostitution, pornography, etc.
- (c) Any other employment that would constitute a threat to the status or dignity of the police as a professional occupation.

Additionally, the Department reserves the right to deny any request for off-duty employment that involves:

- (a) The use of department time, facilities, equipment or supplies.
- (b) The employee's receipt or acceptance of any money or other consideration for the performance of duties or services that he/she would be required or expected to render in the course or hours of his/her employment, appointment or as a part of his/her regular duties.

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- (c) The performance of duties or services that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other member of this department.
- (d) Demands upon the employee's time that would render the performance of his/her duties for this department deficient or substandard.
- (e) Activities that may conflict with any other policy or rule of the Department (Va. Code § 15.2-1712).
- (f) Activities which may occasionally require the use of the employee's police powers in the performance of such employment that are not authorized by local ordinance (Va. Code § 15.2-1712).

815.5.3 ELIGIBILITY

In order to be eligible for off-duty employment, a department employee must:

- (a) Be in good standing with the Department and have received at least a score of 2.00 on his/her last employee performance evaluation. Any employee who has an annual performance rating below that score shall be prohibited from working off-duty employment until minimum performance standards.
- (b) Police recruits, shall not work "Off-Duty Employment" in any capacity during their initial training period.
- (c) Employees who are on workers comp injury leave or FMLA shall not engage in off-duty employment.
- (d) Employees who are on light duty may be restricted from off-duty employment depending on the nature of the injury.

815.5.4 DENIAL

Any employee whose request for off-duty employment has been denied should be provided with a written notification of the reason at the time of the denial.

815.5.5 REVOCATION OR SUSPENSION

Any employee whose approval for off-duty employment is revoked or suspended should be provided with a written notification of the reason for revocation or suspension.

Approval for off-duty employment may be revoked or suspended:

- (a) When a supervisor determines the employee's performance is failing to meet standards and the off-duty employment may be related to the deficient performance.
 - 1. Approval for the off-duty employment may be reestablished when the employee's performance has reached a satisfactory level and with his/her supervisor's authorization.
- (b) When a employee's conduct or off-duty employment conflicts with department policy or any law.
- (c) When the off-duty employment creates an actual or apparent conflict of interest with the Department or City.

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815.5.6 CHANGES IN OFF-DUTY EMPLOYMENT STATUS

If an employee terminates his/her off-duty employment, the member shall promptly submit written notification of such termination to the Chief of Police through the chain of command. Any subsequent request for renewal or continued off-duty employment must thereafter be processed and approved through the procedures set forth in this policy.

Employees shall also promptly submit in writing to the Chief of Police any material changes in off-duty employment, including any change in the number of hours, type of duties or the demands of any approved off-duty employment. Employees who are uncertain whether a change in off-duty employment is material are advised to report the change.

815.5.7 GENERAL GUIDELINES-OFF-DUTY

Employees will not jeopardize their physical or mental health with off-duty employment. Additionally:

- (a) Any employee may be required to discontinue off duty employment if such employment activity or enterprise interferes with the employee's performance, attendance, or promptness.
- (b) Any employee engaged in off-duty employment is subject to being called back to work at the department in case of emergency.
- (c) Personnel performing any type of off-duty employment are subject to Department policies, City of Harrisonburg administrative regulations and personnel rules.
- (d) Employees shall not engage in any outside employment during on-duty hours. This includes the sale of products, consulting, or scheduling appointments to meet with customers.
- (e) Employees will limit their combined on-duty and extra-duty work time to not more than 16 consecutive hours within a 24-hour period.
- (f) An employee may not use their departmental position as a referral for off-duty employment (i.e. referring a burglary victim to the officer's self-employed alarm installation business, etc.).
- (g) Employees are prohibited from using any department equipment or resources in the course of, or for the benefit of, any off-duty employment without the permission of the Chief of Police. This shall include the prohibition against any member using his/her position with this department to gain access to official records or databases of this department or other agencies.

815.6 EXTRA-DUTY ASSIGNMENTS

The Harrisonburg Police Department receives numerous requests to assign police officers to law enforcement related part-time work, including traffic and crowd control, or duty requiring uniformed law enforcement presence. These requests may be from other city agencies (City Contract) or from a private entity (Private Contract) and are processed, posted, and managed by the Extra-Duty Coordinator (as assigned by the Special Operations Commander) on a designated

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departmental scheduling software giving all eligible employees the opportunity to sign up for available assignments.

All posted extra-duty assignments have been reviewed and approved by the Department.

Expectations or responsibilities will be included in the assignment posting or will be received in a pre-event briefing.

Officers may sign up for an assignment if:

- (a) The officer is scheduled off during the event; or
- (b) The officer receives prior supervisor approval to take leave to work the event

815.6.1 PRIVATE CONTRACTS

Any private organization, entity or individual seeking special services (e.g., security, traffic control) from employees of this department must submit a written request to the Extra Duty Coordinator in advance of the desired service. Such services will be assigned and monitored through the Department as extra-duty assignments.

- (a) A request for special services during or at the site of a strike, lockout, picket or other physical demonstration of a labor dispute will not be approved.
- (b) The requester will be required to enter into an agreement that includes indemnification with the Department prior to approval.
- (c) The requester will be required to reimburse the employee directly.
- (d) Should such a request be approved, any employee working an extra-duty assignment shall be subject to the following conditions:
 - 1. The employee shall wear the department uniform and carry department identification.
 - 2. The employee shall be subject to the rules and regulations of this department.
 - 3. Compensation for such approved overtime shall be set beforehand between the potential employer and the Special Operations Commander or his designee. Individual employees will not negotiate compensation with private contractors.

815.6.2 EXCHANGE OF SERVICES

No agreement for "exchange of services" will be entered without the approval of the Chief of Police.

An example of this type of agreement would be a property owner/manager at an apartment complex offering free or reduced rent to officers in return for officer(s) living at the complex. Although this would not include actual police-related duties such as checking grounds, parking lots, doors/windows, etc., the mere presence of an officer residing in the complex holds value and therefore would be the standard for this type of "exchange".

If approved, any "exchange of services" agreement will require a written contract and contain language outlining the conditions and limitations of the service requested in return. The contract will need to be reviewed by the Chief of Police.

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815.6.3 ELIGIBILITY

- (a) Employees will not work extra-duty assignments under the following circumstances:
 - 1. The employee is on suspension.
 - 2. The employee is on leave other than vacation or compensation leave.
 - 3. The employee is the subject of an Internal Affairs Investigation and is assigned to administrative duty as a result of the allegation(s).
 - 4. The employee is on light duty.
- (b) It is the responsibility of the employee who is unable to work extra-duty assignments due to one of the above reasons to notify the Extra-Duty Coordinator for their removal from any assignment list for which they have already signed up. It remains the officer's responsibility to locate coverage for the detail assignment.
- (c) New probationary officers may work Department approved overtime assignments (parades, community events, patrol overtime, etc.) with the approval of the Personnel Development Sergeant or the officers' supervisor as applicable.
- (d) Employees who are on workers comp injury leave or FMLA shall not engage in extra employment.
- (e) Employees who are on leave without pay, have had their police powers suspended or on military leave or are on a probationary status may not engage in extra-duty employment.

815.6.4 SPECIAL RESTRICTIONS

Except for emergency situations or with prior authorization from the Commander, undercover officers or officers assigned to covert operations shall not be eligible to work outside overtime in a uniformed or other capacity that could reasonably disclose the officer's law enforcement status. Officers above the rank of lieutenant shall not engage in extra duty employment without the specific approval of the Chief of Police.

815.6.5 GENERAL GUIDELINES - EXTRA DUTY

- (a) Employees working extra-duty assignments will maintain the same standards of personal appearance, conduct, and performance as if they were on regular duty. The full uniform of the day will be worn on extra-duty assignments; this includes full leather/nylon gear and a traffic vest if traffic control is involved.
- (b) Employees will not jeopardize their physical or mental health with extra-duty assignments.
- (c) Employees will limit their combined on-duty and extra-duty work time to not more than 16 consecutive hours within a 24-hour period.
- (d) If for some reason the employee cannot work the assignment, the officer is responsible for ensuring that a replacement officer is found to work in their absence. An employee who accepts an assignment must make every effort to give 48 hours notice to the Extra-Duty Coordinator if unable to fulfill the assignment. Failure to give notice or to report for duty may result in ineligibility for future assignments.

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- (e) Unsatisfactory performance while engaged in extra duty employment may result in departmental sanctions as well as the employee or officer being restricted from all outside employment,
 - 1. Excessive tardiness
 - 2. Failure to report for duty
 - 3. Improper performance or failure to perform the duties for which hired, (to include violations of departmental policies)
 - 4. Failure to follow instructions of site supervisor
- (f) Department overtime will take precedence to extra duty assignments (ie., emergency situations).

815.6.6 ATTIRE

The wearing of plainclothes on any extra-duty employment assignment is prohibited without the direct approval of the Chief of Police or appropriate Commander. Employees scheduled to work an extra duty law enforcement assignment shall wear their uniform and be equipped the same as they would be for a regular patrol duty assignment. The Chief of Police or appropriate Bureau Commander may grant approval for the wearing of business attire at certain locations that do not pose a high degree of enforcement potential. Requests for approval shall be forwarded to the appropriate division or bureau commanders.

815.6.7 CAD SYSTEM REQUIREMENTS

All officers working secondary law enforcement employment/supplemental overtime shall be required to log on to the CAD and radio system at the beginning of their assignment and to log off of the CAD and radio system at the conclusion of the assignment.

815.6.8 ARREST AND REPORTING PROCEDURE

Any officer making an arrest or taking other official law enforcement action while working in an extra duty assignment shall be required to complete all related reports in a timely manner pursuant to the Report Preparation Policy and notify the on-duty supervisor. Time spent on the completion of such reports shall be considered part of the outside overtime assignment.

815.7 COMPENSATION

The Chief of Police will set the rate of pay for extra-duty Harrisonburg Police Department employees. The rate of pay for extra-duty employment will be calculated at approximately one and one half times the base hourly rate, unless negotiated otherwise. These rates will be posted via memorandum, a copy of which will be maintained by the Extra Duty Coordinator.

- (a) When the employer is a private contractor, the rate of pay will be negotiated in advance by the employer and the Chief of Police or designee. If officers remain on assignment longer than originally contracted, the employer will compensate each officer a full hour pay for any portion of an hour beyond 15 minutes (unless otherwise negotiated).
- (b) Private contractors will submit payment to the officer. A receipt will be given to the officer for services rendered. If standard deductions are not withheld, the employer

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will follow all appropriate Federal and State tax-reporting requirements. Employees will report all earned income to the proper entities.

- (c) Employers will be required to compensate employees a minimum of three (3) hours, unless otherwise negotiated by the extra duty coordinator.

815.8 SICK LEAVE, INJURIES, RESTRICTED DUTY

815.8.1 SICK LEAVE

Whenever an employee utilizes sick leave for personal illness, he/she is prohibited from working any secondary assignment, regardless of funding, for that 24-hour period (e.g., if an officer working 1900-0700 shift calls in sick for a personal illness, the officer is then prohibited from working any secondary employment until after 1901 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. Furthermore, employees who utilize sick leave which causes them to miss an overtime assignment shall notify the employer of their illness and whether the assignment will be covered. These notifications shall be documented by the supervisor and forwarded to the Extra Duty Coordinator or designee.

815.8.2 INJURIES

Employees must recognize that injuries sustained while engaged in general off-duty employment, self-employment, or extra-duty assignments may not be covered under City of Harrisonburg Workers' Compensation and may not give rise to service-connected disability retirement.

Absence from duty, due to injury or illness incurred during any off-duty employment, may necessitate the employee's use of sick, annual, or compensatory leave.

Before working in an off-duty capacity, it is the employee's responsibility to find out if Worker's Compensation or other injury insurance is provided by the off-duty employer. Otherwise, they proceed at their own risk.

815.8.3 LEAVE OR RESTRICTED DUTY STATUS

Employees who are placed on leave or other restricted duty status from another agency shall inform their immediate supervisors immediately. The immediate supervisor shall review the duties of the off-duty employment, along with any related orders (e.g., administrative, medical), and make a recommendation to the Chief of Police regarding whether such employment should continue.

In the event that the Chief of Police determines that the off-duty employment should be discontinued, a notice revoking approval of the outside employment will be forwarded to the member and a copy attached to the original off-duty employment request form.

Criteria for revoking approval due to leave or restricted duty status include, but are not limited to:

- (a) The off-duty employment is medically detrimental to the total recovery of the disabled member, as indicated by the City's medical professional advisers.
- (b) The off-duty employment requires performance of the same or similar physical ability as would be required of an on-duty employee.

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815.8.4 REVIEW OF FINANCIAL RECORDS

Prior to approving outside employment, the Department may request that a employee provide his/her personal financial records for review if the Chief of Police determines that a conflict of interest may exist. Failure or refusal by the employee to provide such records may result in denial of the outside employment.

If, after approving a request for outside employment, the Department obtains information that a financial conflict of interest exists, the Department may request that the employee provide his/her personal financial records, time and attendance for review. Failure or refusal by the member to provide such records may result in revocation or suspension of approval of the outside employment pursuant to this policy.

815.9 ADMINISTRATION

815.9.1 EXTRA DUTY COORDINATOR

The Extra-duty Coordinator is responsible for the smooth operation of officer assignment. Responsibilities of the coordinator include:

- (a) Posting and assignment of all extra-duty jobs.
- (b) Ensuring all contracts are reviewed, approved, and that all departmental policies and procedures are followed.
- (c) Ensuring that a signed memorandum of understanding and/or contract is in place to ensure all parties are aware of stipulations or guidelines set in place for the particular job, to include compensation.
- (d) Preparing an operational plan approved by the Special Operations Commander or his designee.
- (e) Determining which extra-duty assignments require a supervisor. If a job qualifies for a supervisor, the Extra-Duty Coordinator will assign one after posting the assignment.
- (f) May develop an employee list (pool) based on eligibility, prior performance, and any special requirements of a particular assignment.

The Extra-duty Coordinator is not an employment agent and receives no additional payment from any public or private agency or organization.

815.9.2 OPERATIONS PLANS

The extra-duty Coordinator will be responsible for the preparation of an operational plan when appropriate. Operational plans will be required when attendance at any event is estimated to be 100 persons or more, and/or when the event requires 10 or more police personnel, and/or when the event requires the closure/modification of roadways and/or parking lots.

When planning significant event, coordinators will discuss the event's potential impact with the Special Operations Commander.

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Operational plans must include sufficient police personnel to safely police the event and manage all peripheral issues associated with the event. Peripheral issues include, but are not limited to, traffic control related to the event. The extra duty coordinator will forward all extra-duty operational plans to the Special Operations Commander at least 5 days prior to the event.

The Special Operations Commander or designee will have authority to approve or disapprove the operational plan, to include requiring additional extra-duty personnel. Event organizers, who do not wish to hire sufficient police personnel, may have their request denied.

On-duty supervisors should be aware of what extra-duty assignments are active and should make efforts to periodically conduct checks.

815.9.3 SUPERVISORY RESPONSIBILITY

Supervisory personnel shall ensure that the off-duty employment activities of personnel under their command do not interfere with on-duty performance.

Supervisors who discover conditions indicating off-duty employment is having an adverse effect on the employee's performance shall discuss the situation with the employee. If compliance with the conditions outlined in this procedure is not achieved, the supervisor shall send a written memorandum through the chain of command to the Chief of Police documenting the facts indicating noncompliance. The Chief of Police may revoke the approval of the off-duty employment if warranted.

Any officer engaged in extra-duty employment that is injured or who uses force in any manner must report that fact to an on-duty supervisor immediately. All departmental procedures will then be followed. If the assignment has an extra-duty supervisor, that individual should, if feasible, compile all necessary paperwork.

815.9.4 EXTRA-DUTY/EVENT SUPERVISION

- (a) Organizations employing five or more officers at the same time, at the same site, will be required to hire at least one first-line supervisor in addition to the five officers. The first line supervisor will provide direct supervision of the assigned officers. An additional supervisory officer shall be required for each multiple of five patrol officers assigned to such sites. A command officer will be required for assignments that require three or more on-site supervisors. (Example listed below)
 1. 1 to 4 officers = no supervisor required
 2. 5 to 10 officers = requires 1 first-line supervisor
 3. 11 to 15 officers = 2 first-line supervisors
 4. 16 or more = 3 first-line supervisors and 1 Lieutenant
- (b) The Extra Duty Coordinator will post jobs requiring 5 or more officers at least seven days prior to the event or as soon as notification is made if within 7 days of the event, if feasible. Site supervisors are required to make notification to the on-duty supervisor while marking in-service for the extra-duty assignment. The extra duty coordinator will

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notify the Special Operations Division Commander of the events requiring the need for supervision.

815.9.5 TRACKING SYSTEM

The extra duty employer tracking system:

- (a) Special Operations Bureau Commander
 1. The Special Operations Bureau Commander shall have overall control of the file of all approved off-duty employment.
 2. The Special Operations Bureau Commander or designee will semiannually review the off-duty employer files to ensure accuracy and compliance.
- (b) Division Commander or Designated Supervisor
 1. Check the off-duty employer files prior to approving/disapproving any employer permit application.
 2. In the event that a prior application has been denied, the Division Commander or designated supervisor must consider the reasons for the prior denial and any additional information before granting a permit application.
 3. Ensure the accurate and complete entry of approved off-duty employment information (both employers and employees) into the off-duty employer files.
 4. Update appropriate files when changes occur.