

Series 100 Administration	Effective Date 05/04/2016	Review Date Annually	Directive Number 103.5
Chapter 103 - Resource Control			
Reviewing Office Secondary Employment			<input type="checkbox"/> New Directive <input checked="" type="checkbox"/> Revised <small>Revisions in italics</small>
References			

SECONDARY EMPLOYMENT

103.5 - 1 PURPOSE

The Detroit City Council has enacted an ordinance that authorizes the establishment of a Secondary Employment Program for sworn members of the Detroit Police Department (DPD). The purpose of this policy is to provide rules, regulations, and procedures for the implementation of the Secondary Employment Program in accordance with Section 43-2-11 et seq., of the Detroit City Code. *Members must be reminded that working the Secondary Employment Program is that of a privilege and not a right.*

103.5 - 2 POLICY

1. The Secondary Employment Program allows for businesses or other organizations to request the assignment of police officers to events or in other circumstances where the services of a sworn police officer may be required. The assignment of any police officer to any location must be pursuant to an approved written agreement between the police officer and the secondary employer and managed through the *Secondary Employment Office*.
2. A business or organization requesting the assignment of a police officer through the Secondary Employment Program is required to directly pay the police officer at a rate consistent with the city ordinance. The secondary employer must also pay an hourly administrative service fee to the Detroit Police Department which has been approved by the Detroit City Council. The secondary employer will be required to handle all payroll related matters, including applicable withholdings, and make prompt payments directly to the member and any government authorities.
3. The Department is committed to facilitating secondary employment in a manner that will be efficient to the community and the department. However, secondary employment assignments shall be secondary and subject to all of the primary obligations imposed upon police officers pursuant to state and local law, applicable collective bargaining agreements, and the rules, regulations, policies, and procedures of the Department. Secondary employment assignments shall not conflict with the mission of the Department and shall be subject to review by the Department. The Department reserves the right to deny services to any business or organization or at any location, or for any activity, event, or project as long as it

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is non-discriminatory.

4. Members must receive departmental permission to engage in the Secondary Employment Program. All interested members shall apply for and obtain a Secondary Employment Clearance Form. Members working such assignments are subject to the rules, regulations, policies, and procedures of the Department.

103.5 - 3 Definitions

103.5 - 3.1 Outside Employment

Employment that is not of a law enforcement nature in which vested police powers is not a condition of employment requiring no real or implied law enforcement service to the off-duty employer. Outside employment is governed by the Detroit Police Department Manual Directive 102.3, Code of Conduct.

103.5 - 3.2 Secondary Employment

Employment of a law enforcement nature in which vested police powers is a condition of employment whereby the member is employed and paid by a secondary employer for work at an assigned location within the city of Detroit pursuant to an approved agreement that is managed through the department's *Secondary Employment Office*.

103.5 - 4 Limits of Authority

103.5 - 4.1 General

1. The primary duty of members working Secondary Employment assignments shall be to protect life and property, keep the peace, enforce city ordinances, and state and federal laws. **Members shall adhere to departmental procedures and directives during the performance of any Secondary Employment activities.**
2. When the conduct of any person threatens a breach of the peace or similar violation of the law, the member may intervene to end the violation and, if necessary, make an arrest. In any action of this type, employees, patrons, and officials of the business or organization may be asked to support the action taken by the member by bearing witness and/or signing complaints.
3. As determined by the Department, members may be immediately recalled from a Secondary Employment work assignment to an on-duty status.

103.5 - 5 Assignment of Members

1. On-duty assignments are the primary obligation and responsibility of all department personnel. The city ordinance authorizes the department to permit its members to participate in the Secondary Employment Program. However, in order to ensure that all police officers are in optimal physical and mental condition to carry out his/her duties and to ensure that law enforcement is the member's primary concern, it is the policy of the Detroit Police Department that secondary employment performed by an member shall be regulated according to the procedures outlined herein.

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2. This policy is issued with the understanding that the Fair Labor Standards Act (FLSA) contains a provision concerning the payment of overtime compensation to law enforcement officers that work at his/her regular employment and in a law enforcement capacity for a separate and independent employer. The FLSA provides that the hours of work for a separate and independent employer are not combined with the hours of work for the primary public agency employer (city of Detroit) for the purposes of the payment of overtime compensation. However, the FLSA provision applies only when the work is performed solely at the member's option and when the primary employer (city of Detroit) facilitates the Secondary Employment.
3. The Department will manage the following aspects of secondary employment:
 - a. Members approved to work;
 - b. Approved employers to hire members for Secondary Employment purposes;
 - c. The approved rate of pay and method of payment to the member;
 - d. Any additional fees or expenses due to the department; and
 - e. Approval of additional equipment used in the performance of the requested service.
4. Once approved by the Department, the member's participation in Secondary Employment work shall be considered voluntary and at the member's discretion to work. The Department shall not be responsible for compensating any member for the performance of any work performed in conjunction with the Secondary Employment Program.
5. Members participating in any approved Secondary Employment activity, shall provide the required communication and documentation relating to the member's Secondary Employment activities via the approved paper (Activity Log [DPD250]) or digital medium based on the prevailing technology available to or utilized by the Department in a timely manner.

103.5 - 6 Eligibility of Members

1. The ranks of police officer, *detective*, investigator, sergeant, and lieutenant will be eligible for Secondary Employment.
2. Members will be ineligible to participate in the Secondary Employment Program if any of the following circumstances or statuses exists:
 - a. Probationary Police Officer *who has not completed his/her Daily Observation Report [DOR]*;
 - b. Disabled, restricted/light duty;
 - c. Currently suspended or loss of law enforcement authority;
 - d. On attendance control (DPD350);
 - e. Extended Sick Leave;
 - f. No-Gun Status (administrative or medical); and/or
 - g. Received disciplinary action after exhausting all administrative remedies which resulted in a penalty of ten (10) days or more.

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3. The period of ineligibility will be *at the discretion of the Chief of Police, or designee*. Should a member become ineligible to participate in the Secondary Employment Program, he/she shall immediately notify the *Secondary Employment Office* of the circumstances rendering him/her ineligible. If a member accepts a secondary employment assignment during a period of ineligibility, he/she will be subject to discipline for failing to disclose his/her ineligibility.
4. If future assignments have already been obtained by the member prior to ineligibility, the member shall notify the *Secondary Employment Office* immediately to ensure those impacted assignments are reassigned to an eligible member.
5. Police Medical shall provide a weekly roster of all members who have been deemed ineligible for Secondary Employment.
6. In addition, members assigned to work in an undercover/covert capacity should be mindful of his/her on-duty assignment when applying for, or accepting Secondary Employment assignments. Members shall disclose his/her current assignment when submitting the required Secondary Employment Clearance Form. Sergeants and above *are permitted to apply* for secondary employment assignments designated for police officers on the "Seniority Based Assignment" page.
7. If a sergeant or above is selected for a job assignment that was initially posted for police officers, he/she will be paid at police officer's maximum rate of pay. The above shall also apply to a lieutenant who wishes to apply for a job assignment initially posted for sergeants. If a lieutenant is selected for the job assignment, he/she will be paid at sergeant's maximum rate of pay.

103.5 - 6.1 FMLA

When a member is excused from his/her parent command on FMLA, he/she shall not be authorized to work a Secondary Employment assignment on the same day.

103.5 - 7 Sworn Member Application/Approval Process

1. A member interested in working Secondary Employment must electronically initiate the clearance form process by going to the Cover Your Assets (CYA) web site at <https://www.cyausa.com/cf>.
2. Once a member accesses the web site, he/she will be required to logon and provide a password. After logging on the member must click the "Initiate Application" link. The login = members last name, first initial, and the last three (3) numbers of his/her pension. The password = member's pension number.
3. After reading and accepting Special Order (10-10) - Secondary Employment Program, the member shall forward the request to his/her immediate supervisor. At this time, the clearance form will also be automatically forwarded to Disciplinary Administration. Once Disciplinary Administration completes their task, the form will be forwarded back to the member's supervisor for approval.

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4. The receiving supervisor will receive an email notification via GroupWise indicating that a member has initiated a Secondary Employment Clearance Form. Within forty-eight (48) hours of receiving the email notification, the member's supervisor shall complete his/her portion of the form and forward it to the member's commanding officer. The final reviewer shall submit it to Secondary Employment for final approval.
5. In addition to the completion of a Secondary Employment Clearance Form, members are required to complete the on-line training session and post-test. The on-line training will provide the members with a basic understanding of the Secondary Employment Management System. The training can be accessed at <https://www.cyausa.com/TRAINTOCYA30/38/default.aspx>. Logon instructions are provided on the web site. It is the responsibility of each individual member to have a full and complete understanding of the CYA system.
6. Following approval of the Secondary Employment Clearance Form and completion of the on-line training/posttest, the member will receive notification via GroupWise that he/she has been approved to participate in the Secondary Employment Program, at which time he/she may access the Secondary Employment scheduling system at <https://cyausa.com/offduty>. *Upon initial login, members shall change the originally assigned password.* Each authorized member will be responsible for his/her private password and at no time should this be divulged or disclosed to any other individual.

103.5 - 8 Compensation and Administrative Fees

The Chief of Police, or designee, will set the rate of pay for members engaged in Secondary Employment in accordance with the city ordinance. In addition, administrative fees will be assessed to the entity employing the department member for Secondary Employment. If a discrepancy arises in relation to pay, and cannot be resolved by the Secondary Employment employer, the member may contact the *Secondary Employment Office*.

103.5 - 9 Request for Department Members

Department personnel who receive requests for Secondary Employment officers shall refer the requesting person, owner, or business representative to the Secondary Employment Office.

103.5 - 10 Authorization for Businesses to Participate in Secondary Employment

1. Any private person or entity desiring to retain the services of the Detroit Police Department for a Secondary Employment assignment shall be required to enter into a Secondary Employment Employer agreement with the Department. The Secondary Employment Employer agreement shall include, but not be limited to:
 - a. The full name and pertinent contact information of the requesting party;

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- b. The full name and pertinent contact information of the person or business unit responsible for prompt payment;
 - c. The type of business activities or event activities;
 - d. The nature of Secondary Employment duties to be performed relating to the business;
 - e. The location of and number of personnel required to perform the duties;
 - f. The date and hours of service;
 - g. The rate of payment for services to the members, not to be below what is established by city ordinance; and
 - h. The administrative service fees that shall be paid to the department.
2. The agreement may also provide for deposits in advance by the contractor for services to be performed. The final decision on the suitability of any Secondary Employment Permit assignment rests with the Chief of Police, or designee.

103.5 - 11 Prohibited Assignments

The below listed assignments are prohibited unless otherwise directed by the Chief of Police, or designee:

1. Assignments reflecting adversely on the professionalism or dignity of the Department;
2. Assignments involving conflict of interest, or the appearance of conflict of interest, including a conflict with any ordinances, laws, or statutes of government, or a conflict with any policy, regulation, or procedure of the Detroit Police Department;
3. Assignments adversely affecting the member's performance of regular on-duty assignments;
4. Assignments inside of establishments where the primary business of the establishment is the sale of alcoholic beverages to the public;
5. Assignments inside of any sexually oriented business, such as an adult bookstore, adult cabaret, or an adult motion picture theater;
6. Assignments where an officer acts as an intermediary between a particular employer and a group of employees employed as watchmen/security guards for the purpose of scheduling, coordinating, or similar activity; and
7. Any other assignment prohibited by the Department that may not be in the best interests of the city.

103.5 - 12 Specialized Assignments

Request for specialized assignments shall be established at the direction of the Chief of Police, or designee. Example: Canine, Traffic Enforcement, Executive Protection, etc.

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103.5 - 13 Work Schedule

The number of hours an officer may engage in secondary employment activity shall be limited to not more than thirty (30) hours per week. Time worked on furlough and leave days are exempt from the rule as stated in the Detroit Police Manual Directive 102.3, *Code of Conduct*.

103.5 - 14 Supervision/Manpower Requirements

1. All Secondary Employment entities employing more than three (3) police officers at the same time and at the same site will be required to employ at least one (1) on-site Secondary Employment supervisor to provide direct supervision to the assigned officers. An additional Secondary Employment supervisory officer shall be employed should the number of employed police officers exceed six (6).
2. On-duty supervisors will be made aware of any Secondary Employment assignments active in his/her area, via the zone dispatcher and he/she shall conduct periodic checks of the member(s) engaged in the Secondary Employment assignment.

103.5 - 15 Uniform and Vehicle Requirements

All members working a Secondary Employment assignment shall do so in uniform. The only exception to this would be in the case of a specialized assignment in which the Chief of Police, or designee, has approved the specified assignment as non-uniform. The *Secondary Employment Office* shall determine which assignments require the use of a department vehicle. All members working such assignments shall use a marked police vehicle. *In the event there is a vehicle shortage, a marked scout car may be obtained from another department entity.* Members shall comply with department procedures concerning the wearing of the uniform and the care and use of department vehicles. The policy and procedure for the procurement and payment for vehicles for such assignments shall be contained in a subsequent order. There will be a cost recovery fee if a vehicle is used for a Secondary Employment assignment.

103.5 - 16 Radio Procedures

1. All members working a Secondary Employment assignment will be required to notify Communications Operations (who will ensure the appropriate zone dispatcher is notified) and the desk supervisor of the precinct where the assignment is located with the detailed assignment information (i.e. radio code, address, nature of event, scheduled hours, and number of members assigned to the detail), prior to the commencement of the assignment. At the conclusion of the assignment, members shall notify Communications Operations that the assignment has been completed.
2. The *Secondary Employment Office* will provide each member working in a Secondary Employment capacity a permanent radio code to utilize during all Secondary Employment assignments.
3. At any given time during a Secondary Employment assignment, a member may encounter a situation in which he/she must take police action. Members shall notify

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dispatch of any anticipated encounter with a perpetrator; giving location, assignment, radio code, and nature of anticipated contact. This shall be done whether the member is working alone or with a partner.

103.5 - 17 Arrests/Use of Force/Injury to Persons or Injury to a Member

Any member engaged in a Secondary Employment assignment that makes an arrest, uses force, or whereby a person and/or a member is injured shall immediately report the incident to a supervisor within the precinct of occurrence. If the Secondary Employment assignment has a Secondary Employment off-duty supervisor working, the member shall immediately report the incident to that supervisor. The member and supervisor shall make the appropriate notifications and prepare the appropriate paperwork in accordance with department procedures. *In the event that a member becomes injured or ill in the course of his/her Secondary Employment assignment, he/she shall follow the policy directives outlined in the Detroit Police Department Manual Directive 401.8, Police Medical and Duty Status.*

103.5 - 18 Department Members Injured while Working Secondary Employment

- 1. Members injured while working Secondary Employment shall seek medical attention through an authorized medical facility, authorized by Police Medical. An Injury Report (DPD101) shall be prepared within forty-eight (48) hours of an injury sustained while working Secondary Employment. If the Secondary Employment assignment has a Secondary Employment off-duty supervisor working, the member shall immediately report the incident to that supervisor, or to a supervisor within the precinct where the injury occurred. If members are unable to complete the injury report, the member's supervisor shall complete the injury report.*
- 2. An officer's injury sustained while taking police action (i.e. arrests, pursuits, etc.) will be reviewed by the medical director and if deemed compensable, the injury will be covered by worker's compensation. If a member suffers a workplace injury (i.e. slip and fall) while working for a vendor, the member shall seek medical care as needed as soon as possible. The vendor's insurer will be deemed responsible for the officer's medical expense.*
- 3. The injured member shall contact the commanding officer of Secondary Employment for the appropriate vendor billing forms for workplace injuries during normal business hours. If the injury occurs after hours, the commanding officer of Secondary Employment shall be contacted via Communications.*
- 4. In either event, injured members shall report to Police Medical the next business day with a copy of the injury report and all medical documentation. Any further medical concerns shall be guided by the Detroit Police Manual Directive 401.8, Police Medical and Duty Status.*

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5. When a use of force/detainee injury occurs during a Secondary Employment assignment, Secondary Employment administration shall receive a copy of the final Use of Force/Detainee Injury Supervisor Investigation Report (SIR). Please refer to Training Directive (12-05) - Guidelines for "Reporting/Documenting all Use of Force/Detainee Injury Incidents Occurring at Special Events/Details/Secondary Employment/Extended "Assigned-Out" Details".

103.5 - 19 Preparation and Submission of Reports

1. Members working Secondary Employment assignments shall be responsible for the completion and submission of required reports in a timely manner. The member shall write "Secondary Employment" in the assignment block of all reports prepared and submitted related to crimes and arrests during the time working in that capacity. In addition, the member shall include in the body of such reports the name of the Secondary Employment employer.
2. Members who fail to complete the required report(s) may have his/her Secondary Employment privileges revoked or suspended.

103.5 - 20 Court Appearances

1. Members shall submit a Court Appearance Notice (DPD442) to the Department for any court appearance that results from Secondary Employment.
2. The member attending court relative to a Secondary Employment assignment shall mark the Secondary Employment box on the Court Appearance Notice (DPD442). Court Appearance Notices (DPD442) related to Secondary Employment shall be processed in the normal manner.
3. Members shall ***not*** apply for a Secondary Employment assignment that may conflict with any court appearance. If a member receives a notice to appear in court on the same day of a previously scheduled Secondary Employment assignment, the member shall immediately notify the Secondary Employment coordinator for further instruction.
4. In rare instances, when a member is notified (i.e. by telephone, in person) to appear in court while at a Secondary Employment assignment, the member shall make immediate notification to the Secondary Employment employer and the Secondary Employment coordinator prior to leaving the assignment.
5. Under ***no*** circumstances shall a member leave his/her Secondary Employment assignment to attend any court appearance without proper notification, as stated above.
6. Court work is to be given the highest priority and failure to appear may result in contempt of court and disciplinary action.

103.5 - 21 General Rules, Regulations, and Guidelines

1. Any member who becomes incapacitated or unable to fulfill his/her scheduled Secondary Employment assignment shall immediately notify the Secondary Employment coordinator, Monday through Friday, 8:00a.m. - 4:00p.m., and the

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Secondary Employment employer. For notification to the Secondary Employment coordinator after hours, the member shall contact *the Secondary Employment coordinator*.

2. *A member shall not be eligible to work a Secondary Employment assignment on the same day that a sick day or E-day is used on a regular scheduled on-duty assignment; thus, the member shall make notifications as indicated above. A member shall not be eligible to work a Secondary Employment assignment if the hours conflict with his/her primary assignment hours. For example, if a member's primary assignment hours are from 8:00a.m. - 4:00p.m., that member is not eligible to work a Secondary Employment assignment starting at 4:00p.m. Any members found to be in violation of this procedure will be subject to disciplinary action.*
3. Any member who fails to report to his/her scheduled Secondary Employment assignment without just cause and proper notification shall submit an Inter-Office Memorandum (DPD568) directly to the commanding officer of Secondary Employment detailing his/her failure to report for the assignment. The member shall not be allowed to participate in the Secondary Employment Program until he/she submits the Inter-Office Memorandum (DPD568).
4. Members scheduled to work Secondary Employment opportunities shall report to the Secondary Employment assignment at the designated starting time. Members shall strictly adhere to the job information and shift information provided in the details of the assignment. Failure to report to the area designated in the details or failure to make proper contact with the Secondary Employment employer, if noted in the details, shall be cause for suspension from the program.
5. Upon reporting to a Secondary Employment assignment, if the member cannot locate the Secondary Employment employer, he/she shall contact the Secondary Employment coordinator for further instructions. For this purpose, if the Secondary Employment assignment is scheduled after hours, members shall contact *the Secondary Employment coordinator via telephone*.
6. Members shall maintain his/her post at the Secondary Employment assignment at all times as directed by the Secondary Employment employer. Only exigent circumstances (i.e. member becomes aware of a violent crime in the immediate area) shall justify the member leaving his/her post. Additionally, the member shall immediately notify dispatch of the present situation and shall always be mindful of available back up. The member shall use good judgement in his/her decision to leave the Secondary Employment assignment and be able to articulate that decision in great detail.
7. Members must keep in mind that Secondary Employment is a law enforcement function and shall only work in a law enforcement capacity in order to be in compliance with the rules and regulations set forth for the Secondary Employment guidelines.
8. Members must adhere to the rules, regulations, and procedures posted on the CYA-Secondary Employment Management System website. **Any violations shall result in the member's suspension from the Secondary Employment Program for a period of time to be determined by the Chief of Police, or designee.**

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9. All complaints or concerns an employer/member may have regarding the assigned detail shall be directed to the Secondary Employment Program for a resolution.
10. All members who wish to work or schedule Secondary Employment opportunities shall adhere to the Detroit Police Department Manual at all times while working Secondary Employment assignments.

Related Procedures:

- Training Directive 12-05 - Guidelines for Reporting/Documenting all Use of Force/Detainee Injury Incidents Occurring at Special Events/Details/Secondary Employment/Extended "Assigned-Out" Details
- *Special Order (10-10) - Secondary Employment Program*
- *Detroit Police Department Manual Directive 401.8, Police Medical and Duty Status*
- *Detroit Police Department Manual Directive 102.3, Code of Conduct*