SECONDARY EMPLOYMENT

This order establishes Department policies and procedures regarding secondary employment, the application process, the reasons for denial or revocation, regulations while working secondary employment, temporary secondary employment, and arrest and report procedures.

I. INTRODUCTION/GUIDELINES

This order consolidates present Department policies and procedures concerning secondary employment. Sections have been updated to conform with current statutory and case law.

Decisions by the California State Supreme Court have made major changes in the status of peace officers engaged in secondary employment during their off-duty hours. In Cervantes vs. J. C. Penney Co. 24 Cal. 3d 579 (1979), the Court held that the arrest powers of a police officer pursuant to 836PC do not carry over while engaged in secondary employment. While engaged in secondary employment, the arrest powers of a citizen pursuant to 837PC apply.

When an officer is employed by a public entity to engage in secondary employment while in a police uniform, he/she is allowed to exercise arrest powers pursuant to 836 P.C.

II. POLICY

A. PERMISSION TO ENGAGE IN SECONDARY EMPLOYMENT

1. OFFICERS' OBLIGATIONS. **Working secondary employment is a privilege, not a right, and permission is contingent upon the officer carrying out his/her police duties to the satisfaction of the Chief of Police. Officers engaging in secondary employment must recognize that their primary obligation is to the San Francisco Police Department. Officers are subject to call at any time for emergencies, special assignments, or overtime duty; secondary employment must not infringe on these obligations.**

2. REVIEW. Commanding officers shall continuously review the performance of their officers who engage in secondary employment. If any officer does not fulfill his/her Department responsibilities satisfactorily, the commanding officer shall recommend termination of secondary employment.

3. WRITTEN PERMISSION. Officers shall not engage in secondary employment or any other business or calling without prior written permission from the Chief of Police. Officers who are suspended or are on a leave of absence without pay are exempt from this provision; however, they are subject to Charter provisions, Department policies and procedures, and all other provisions of this order.

   a. TEMPORARY SECONDARY EMPLOYMENT. In certain circumstances, an officer is given short advance notice of a temporary secondary employment opportunity and it is impossible for the officer to obtain written permission of the Chief of Police prior to beginning the employment. In these situations, the officer's commanding officer may tentatively approve the officer's request pending review by the Chief; however, the commanding officer shall also be responsible for carefully examining the request and ensuring that the employment does not conflict with any provisions of this order.

4. CHANGES. Permission to engage in secondary employment shall be solely for the specific employment for which the request was submitted and approved. Permission remains valid until it is revoked by the Chief of Police or the employment is terminated. If there is a change of employer, or a substantial or material change in the duties of the employment, the officer shall immediately submit a new request.

B. BASIS FOR DENIAL OR REVOCATION. A request for secondary employment shall be disapproved, or an approved request revoked for any of the following reasons:

1. DISCLOSURE OF RECORDS, DOCUMENTS, FILES. The employment causes or is likely to cause the officer to use or disclose official police records, documents or files.

2. LEGAL PROCESS. The employment involves service of legal process.

3. MACE/OC. Officers may carry a personally owned chemical agent canister while engaged in secondary employment; however, the officer must first comply with the provisions of Penal Code Section 12403.7.

4. ACCESS TO INFORMATION/CWB. While engaged in secondary employment, officers shall not call the Central Warrant Bureau (CWB) or use Department computers to obtain information concerning those under arrest or those possibly to be placed under arrest.

F. COMPENSATION. Officers involved in incidents requiring them to perform police services not connected with their secondary employment are not entitled to overtime from the Department, either by compensation or by accumulated time, if they are paid by their secondary employer during the time involved in handling of the incident.

G. INJURY. If an officer is injured while engaging in secondary employment, the award of disability pay from the City and County of San Francisco will be determined by the Retirement Board.

H. SICK, DISABILITY OR VACATION LEAVE

1. SICK OR DISABILITY LEAVES. Officers shall not engage in any business or calling while on sick leave with pay or disability leave with pay, even though prior written permission had been received and approved by the Chief of Police prior to the leave.

2. VACATION LEAVES. Officers shall not accept paid employment while on vacation leave. If any officer accepts paid employment while on vacation leave, he/she shall forfeit the vacation compensation to which he/she is entitled.

I. LIMITED DUTY. Limited duty members may engage in secondary employment, however, the employment will be carefully reviewed to ensure that the it does not interfere with a member's recovery to full duty.

J. PROBATIONARY OFFICERS. Officers (Q-2) must complete their probationary period before requesting permission to engage in secondary employment.

K. **TERMINATION OF EMPLOYMENT. Officers shall promptly report the termination of their secondary employment through channels to the Chief of Police.**

III. PROCEDURES

A. APPLICATION AND TERMINATION

1. REQUEST FORM. To request permission to engage in secondary employment, submit a Request for Secondary Employment (SFPD 156) in triplicate to your commanding officer at least 10 days prior to the date employment is to start.

2. APPROVAL/DISAPPROVAL. The commanding officer shall recommend approval or disapproval on the form and forward all the copies to the Commanding Officer of the Personnel Division. If the commanding officer recommends disapproval, he/she shall indicate the reason(s) on the back of the form.

3. CHIEF'S APPROVAL. The Commanding Officer of the Personnel Division will process all requests and recommend approval or disapproval to the Chief of Police. The Chief of Police shall approve or disapprove the request.

4. FILING. Whether approved or disapproved, the original request will be filed in the officer's personnel file, the duplicate filed in the Personnel Division and the triplicate returned to the officer.

3. OBLIGATIONS. There is evidence that the employment would impair or interfere with the officer's ability to efficiently discharge his/her Police Department obligations.

4. CONFLICTS. The employment would create a conflict of interest in regard to his/her performance in the Police Department or would violate policies or procedures of the Department.

5. PRIVATE INVESTIGATIONS. The employment is of a private investigative nature or connected with a private investigation agency.

   a. This provision does not apply to officers employed as or by "private patrol operators" defined in Business and Profession Code Section 7521 (b) and (c), even though their employers may hold licenses as private investigators as defined in Business & Profession Code Section 7521 (a).

   b. State law requires that persons who contract for services as private patrol operators or private investigators must be licensed and failure to be so registered is a misdemeanor. Peace officers may be hired by employers to provide security services as outlined in Business and Profession Code Sections 7521 (b) and (c), provided they appear on the employers' payroll and employers make necessary deductions from wages for unemployment and disability insurance.

6. DEBT COLLECTIONS. The employment involves the collection of debts.

7. TAVERNS/SALE OF INTOXICATING BEVERAGES. The employment is directly or indirectly connected with the operation of a tavern or the sale of intoxicating beverages in the City and County of San Francisco. For the purpose of this paragraph, "indirectly" shall mean any on-site activity relating to the operation of a tavern or the sale of intoxicating beverages.

   a. In accordance with the provisions of the Alcoholic Beverage Control Act, Cal. Code of Reg., Title 4, Section 63, an officer may be the owner of a liquor license outside the county of his/her employment. An officer may also work in an establishment selling intoxicating beverages outside of the county of his/her employment if not directly involved in dispensing the beverage; however, if the officer is the owner/licensee of the establishment, he/she may work as a bartender in that establishment.

8. TAXICAB/VEHICLE FOR HIRE. The employment involves the operation of any taxicab or public passenger-for-hire vehicle by a sworn officer in the City and County of San Francisco or the San Francisco International Airport.

9. TOW SERVICE. The employment involves the operation of a tow service within the City and County of San Francisco.

10. HOURS. The employment is for more than twenty (20) hours in any week.

C. ATTENTION TO DUTY. During their tour of duty, officers shall devote their entire time and attention to the efficient performance of police business and not engage in any other business or calling (see DGO 2.01, General Rules of Conduct). Police Department phone numbers are not to be used as a referral number in connection with secondary employment.

D. LABOR DISPUTES. Officers shall not accept secondary employment in a business or occupation where the employees are on strike or are "locked out" by their employer. Police officers presently working as security guards or in positions requiring security responsibilities are advised that during a strike or labor disturbance at their places of secondary employment, they shall not continue to work, nor shall they engage in any picketing (see DGO 8.05, Labor Disputes).

1. OFFICERS' RIGHTS. This provision is not intended to abridge officers' constitutionally guaranteed rights. When officers exercise these rights while off duty, they shall take reasonable steps to prevent crime, detect and arrest offenders, and protect life and property, consistent with their ability to take proper action.

E. DISPLAY AND USE OF DEPARTMENT-ISSUED EQUIPMENT (Also see DGO 10.02, Equipment)

1. DEPARTMENT-ISSUED EQUIPMENT. Department-issued equipment shall not be used when an officer is engaged in secondary employment.

2. STARS AND ID CARDS. Officers shall not display their stars or identification cards while engaged in secondary employment, except when necessary to perform an arrest or other police duty which is not directly related to the secondary employment.

B. TEMPORARY SECONDARY EMPLOYMENT

1. DEFINED. Temporary secondary employment is defined as secondary employment of not more than 5 days in any 30-day period and not of a continuous nature.

2. REQUEST FORM. If you wish to engage in temporary secondary employment, submit a Request for Secondary Employment (SFPD 156) in duplicate to your commanding officer for approval, along with a memorandum describing the nature of the employment. The request must contain the beginning and ending dates of the employment.

   a. The commanding officer shall forward through channels the original and copy of SFPD 156, along with the memorandum to the Personnel Division for inclusion in the secondary employment file.

3. SECOND REQUEST. A second request for temporary secondary employment within 30 days shall be denied unless approved by your Deputy Chief.

4. OTHER PROVISIONS. All other provisions of this order are applicable in temporary secondary employment.

C. ARRESTS AND REPORTS

1. ARRESTS. When off duty and making an arrest in connection with your secondary employment, follow these procedures:

   a. Contact Communications Division and request a "405."

   b. Complete SFPD 60, Incident Report (Security Report), entering your name as the Reportee/Witness.

   c. Sign your name in the "Other" box below the Victim/Reportee section.

   d. Do not enter your name on SFPD 60 as the Reporting Officer. Do not assign a case number in your name, or issue the person a citation.

   e. Turn the arrested person and the completed report form over to the responding officer.

2. RESPONDING ON-DUTY OFFICER. The officer responding to the "405" shall:

   a. Receive the arrested person and make an inquiry with CWB to ascertain if there are any outstanding warrants (see DGO 5.04, Arrests by Private Persons).

   b. Cite or book the arrested person according to Department policy and procedure (see DGO 5.06, Citation Release).

   c. Enter his/her name on SFPD 60 as the "Reporting Officer" and assign the report a case number.

   d. Enter in the section marked "Other Information," "The following information was provided by [arresting officer's name] working secondary employment at [location of the arrest]."

   e. Submit the report to his/her lieutenant no later than the end of the tour of duty.

D. ANNUAL REPORT. The Commanding Officer of the Personnel Division will make an annual report on December 31 to the Police Commission on secondary employment. The report will include the names and ranks of all officers engaged in secondary employment and the location where they work.