

	<b>ROSENBERG POLICE DEPARTMENT</b>	
	<b>General Order 4.06 Off-duty Employment</b>	
	<b>Effective Date: 4-05-2013</b>	<b>Replaces: General Order 190</b>
	<b>Approved:</b>  Chief of Police	
	<b>Reference: TBP 4.05</b>	

**I. POLICY**

The Chief of Police must ensure the continued efficiency and effectiveness of the department while simultaneously reducing or eliminating conflicts of interest. To promote the welfare and good reputation of the department this order outlines procedures to ensure appropriate, accountable, and reasonable off-duty work. Secondary employment is a privilege. While allowing employees to pursue legitimate sources of supplemental income, it is imperative to maintain an agency in which its employees are physically fit and mentally alert. Additionally, the appearance of impropriety must be avoided.

**II. PURPOSE**

To define regulations governing off-duty employment and conduct while employed in an off-duty capacity.

**III. DEFINITIONS**

- A. *Law Enforcement Related Employment (LERE)* – any secondary employment that is conditioned on the actual or potential use of law enforcement powers by the officer (e.g., city overtime, private security contracts). Court Overtime, late calls, overtime related to workload, or emergency holdovers are not considered city overtime for the purposes of this policy.
- B. *Non-Law Enforcement Related Employment (Non-LERE)* – any secondary employment that is not conditioned on the actual or potential use of law enforcement powers by the off-duty employee (e.g., lawn care business, ownership of rental property). This includes any business that is run, operated, supervised or owned, totally or in part, by the employee.
- C. *Secondary employment* – any outside employment, either law enforcement related or non-law enforcement related.

#### IV. GENERAL PROVISIONS

- A. An employee's first duty and responsibility is to the City and Rosenberg Police Department (RPD). An employee will respond to any order to return to duty when issued by a supervisor, even if the employee is working secondary employment when called.
- B. Employees performing secondary employment services are subject to the same on-duty rules and regulations as if they were performing on-duty Department service.
- C. An officer's primary responsibility is always the enforcement of state laws and City ordinances. Officers are reminded of the Code of Ethics and Oath of Office, which shall not be circumvented by any secondary employment agreement. Officers engaged in secondary employment work will not refuse to assist any resident requesting reasonable law enforcement assistance. Officers are expected to take any necessary action to assist residents in this capacity.
- D. An employee will honor all subpoenas, even when they create a scheduling conflict in secondary employment.
- E. Employees shall not be compensated by the City for any civil court case resulting from secondary employment. If the officer is on-duty and required to attend a civil trial resulting from official police action, they may be authorized special assignment for this purpose. If the civil action is for other than a police-related matter, the employee will be required to take vacation time.
- F. Employees are restricted from working secondary employment assignments if:
  - 1. The employee is on limited duty assignment.
  - 2. The employee is on injury leave, administrative leave, light duty, suspension or leave of absence.
  - 3. On the same day the employee has failed to report for regular duty due to illness or injury.
- G. No officer, including those employed as a courtesy officer, may take action as a peace officer while on suspension or restricted duty. Officers on suspension or restricted duty who observe conduct that requires a police response will call for an on-duty unit to handle the situation. The only exception applies to officers employed as an apartment courtesy officer. Under this exception, and with the permission of the Chief or designee, the officer may perform their regular duties as a courtesy officer during the effective dates of the suspension, such as unlocking the doors of residents who lock themselves out.
- H. Sergeants may not be hired to work LERE in a supervisory role.

- I. Tenure within the Department required for Secondary Employment:
  - 1. Police Cadets will not engage in any type of secondary employment.
  - 2. Officers will not engage in any type of secondary employment during the period of which they are involved in the Field Training Program as a trainee.
  - 3. All Officers must renew the LERE Requests on an annual basis for any on-going LERE duty.
- J. Employees are prohibited from performing any secondary employment during on-duty hours.
- K. Employees shall not utilize confidential information obtained by the Department, or through their official capacity, in any secondary employment unless the information is used in connection with law enforcement duties for the Department. This provision does not constitute an exception to any confidentiality requirements contained in law or other Departmental policies and regulations.
- L. Employees shall not be permitted to obtain a permit or license from the Texas Board of Private Investigators and Private Security Agencies. No employee may be employed by, or through, any individual, firm, association, company, partnership, corporation or other entity which holds a license or permit from the Texas Board of Private Investigators and Private Security Agencies. Exceptions to the above will be reviewed on a case-by-case basis by the Chief or their designee.
- M. Officers shall not be permitted to be a deputy or hold a commission from any other law enforcement agency, whether local, state or federal without prior departmental approval.
- N. Employees shall not work for, or engage in, the following types of secondary employment:
  - 1. A bad check or bill collector.
  - 2. A repossession agent or agency.
  - 3. A wrecker company.
  - 4. Any other employment in which law enforcement authority might be used to collect money or merchandise for private purposes.
  - 5. Where it is expected the employee will enforce company policies or rules (commonly known as "house rules").
  - 6. A bouncer.

7. A bar or other establishment or event where liquor, beer or other alcoholic beverages are sold and/or consumed on premises and the sale of alcohol is the principal source of income. The Department shall have the absolute discretion to determine which businesses, establishments or events fall within this section.
  - a. This includes contracting with a leasing company for “strip centers” where a bar or other such drinking establishment is a tenant, and the obvious reason for the need of officers is due to that tenant.
  - b. This section does not normally apply to businesses such as restaurants, bowling alleys, etc. whose primary source of income are not from the sale of alcohol.
  - c. This section does not apply to City owned facilities or City sponsored events.
8. Any employment, which involves the manufacture or transportation of alcoholic beverages as the principal business.
9. A courier of monies, jewels, bonds, securities, or other things of value, except as additional security for such a person or business.
10. A pawnshop.
11. A sexually oriented business.
12. Protection of management, employees, or property during a strike or labor dispute.
13. For a business or labor organization that is on strike (e.g., “strike buster”).
14. For any person or organization which advocates hatred, prejudice, or oppression of any racial, ethnic, gender or religious group, or which disseminates defamatory materials.
15. By political parties or employment that favors one candidate over another.
16. Any business or establishment in which gambling is the principal business.
17. By an employer known to engage in criminal activity.

O. Employees may not engage in any type of secondary employment, which might:

1. Render the employee unavailable to respond during an unanticipated emergency;

2. Physically or mentally exhaust the employee to the point that the employee's performance is affected;
3. Require any special consideration for scheduling the employee's regular duty hours;
4. Bring the Department into disrepute or impair the operation and/or efficiency of the Department; or
5. Bring the employee into disrepute or impair the employee's effectiveness.
6. Where the employer restricts an officer from performing the duties of a Police Officer.

## **V. LIMITATIONS ON SECONDARY EMPLOYMENT HOURS WORKED**

- A. Employees shall not work in excess of 76 combined regular duty and Secondary employment hours per workweek without the approval from their commander/manager.
- B. All Secondary employment hours must be recorded on the officer's timesheet and not exceed a maximum of 36 hours LERE unless the officer has been given approved leave (e.g., vacation, exceptional vacation, comp leave).
  1. Secondary Employment Hours will be recorded by the officer on the appropriate column of an officer's timesheet.
    - a. The earnings code of "LEH" will be used, and the officer will document the number of LERE hours worked each day.
    - b. The bottom "totals" line on the timesheet will not include LEH hours. Officers will use the "total" column at the end of the LEH line to reflect the total number of LEH hours worked each week.
    - c. Officers are required to include the estimated hours worked per week as an LERE Courtesy Officer.
- C. Employees shall not work more than 16 total hours within a 24 hour period without approval from their commander/manager. A 24 hour period is any consecutive 24 hours, regardless of the time the work started. The employee is responsible for notifying the appropriate supervisor two (2) hours prior to the 16th hour of the 24 hour period. The name of the approving commander/manager will be noted on the employee's LERE overtime log/timesheet.

## **VI. EQUIPMENT AND UNIFORM ISSUES**

- A. Employees will not use Department-issued equipment in any secondary employment, with the following exceptions:

1. Officers may use the police uniform and personally issued equipment normally worn with the uniform while engaged in LERE assignments.
2. Depending upon availability, other safety equipment may be used after obtaining permission from the commander to whom the equipment is assigned.
3. Police vehicles or assigned vehicles may be driven to and from approved LERE as long as the officer is appropriately dressed according to policy, and as long as that employment is within the Corporate Limits of the City of Rosenberg.

B. Officers should generally work LERE assignments in uniform.

EXCEPTION: Commanders may approve plain clothes LERE assignments:

1. If at least two (2) officers are assigned when police enforcement or intervention is likely; (e.g., focus is targeting criminal behavior or at a congested public place where crime is likely), or
2. If one (1) officer is assigned when police enforcement or intervention is not likely (e.g., weddings, apartment courtesy officer)

C. Officers working LERE assignments inside of the Corporate Limits of Rosenberg will have their RPD radios available. Officers will notify RPD Communications of:

1. The LERE assignment location,
2. Hours of the assignment (on-duty and off-duty times),
3. Immediate contact information (e.g., mobile and/or radio number), and
4. If they are in uniform or plain clothes for the assignment. Officers in plainclothes will provide a description of their attire and the nature of their assignment.

## **VII. REPORTS AND ARRESTS MADE WHILE WORKING LERE ASSIGNMENTS**

A. Officers engaged in LERE assignments will carry the necessary forms and citations reasonably required for the assignment.

B. Reporting Requirements and Responsibilities

1. Incidents that originate off the property of the LERE work location.

- a. Officers working LERE assignments, when approached by citizens requesting assistance for incidents that have occurred or that are occurring, off the property of the LERE assignment will provide reasonable assistance to that citizen. Such assistance may include, but is not limited to, taking immediate action to protect life and property; assisting the citizen in contacting 911 for on-duty officer.
  - b. The responding on-duty officer will write an incident report. If needed, the LERE officer will write a supplemental report to the on-duty officer's incident report.
2. Incidents originating on the property of the LERE work location.
- a. Officers will immediately report any incidents or situations arising from, or connected with, their LERE in the same regard as if on-duty. This includes completing all paperwork related to an incident (e.g., original and/or supplementary reports, associated forms and documents, evidence tags, impound forms). EXCEPTION: When an officer is the victim of an incident or the incident is of such a nature that an immediate extensive investigation would be required (e.g., murder, rape, robbery), an on-duty unit will be called.
  - b. Incident reports initiated by the LERE officer not pertaining to custody arrests will be turned in by the LERE officer within 24 hours.
  - c. Officers writing an incident report requiring immediate entry, such as a misdemeanor citation or custody arrest, shall ensure the report is turned in and approved by the on-duty supervisor before the end of their LERE assignment.
  - d. If, prior to the end of the LERE assignment, it becomes apparent to the officer that they will not be able to complete any duties required by the Department in connection with the use of their law enforcement powers (e.g. completing reports, transporting persons or property), the officer will immediately contact the on-duty patrol supervisor. The officer will be required to provide the supervisor with an explanation why they are unable to complete the required duties prior to the end of the LERE assignment.
    - (i) If the patrol supervisor determines the duties can wait until the officer's next regularly scheduled shift, then the officer will be released. If released by the supervisor, it is the officer's responsibility to ensure the required

duties are completed prior to the end of their next shift.

- (ii) If the patrol supervisor determines that the duties must be completed without delay at the conclusion of the LERE assignment, the supervisor will authorize overtime, and the time spent completing the required duties will be counted as productive hours during that workweek.

### C. Arrests

1. LERE officers making arrests for incidents connected with their LERE assignment will complete an incident report and, if necessary, a probable cause affidavit, following normal arrest reporting procedures, and will:
  - a. Contact Communications to request an incident number for the arrest report before turning it over to another officer; and
  - b. Contact Communications to request a unit for prisoner transport.
2. Transporting officers need only write a supplement report stating that they took custody of the arrested person. They must also sign any evidence tags to maintain the chain of custody, and book the prisoner.

D. Nothing in this document prohibits an LERE officer from calling for backup assistance from on-duty personnel.

E. If an officer is working LERE and takes law enforcement action during the time that they are being compensated by the LERE employer, the officer will not be compensated by the City for those hours, nor will those hours be included as productive hours during the officer's workweek.

## VIII. MOTOR VEHICLE ESCORT GUIDES

This section applies to officers working LERE assignments as Motor Vehicle Escort Guides. This section does not apply to motor vehicle escorts provided by on-duty personnel.

A. Officers working as a Motor Vehicle Escort Guide will:

1. Use personally owned motorcycles that are equipped as prescribed in to comply with Texas Emergency Vehicle Laws.

2. Maintain the motorcycle in proper working order with current registration and Motor Vehicle Inspection.
  3. Maintain Liability Insurance limits of \$300,000/\$100,000.
  4. Wear an RPD uniform or RPD Motor Officers" uniform.
- B. Oversize load escorts include but are not limited to wide loads, oversized loads, house moves, and industrial equipment. When conducting escorts for oversized loads the officer will ensure that all necessary permits have been obtained from the Texas Department of Transportation and will abide by the route set out in the permit. The officer will not escort any vehicle if the officer has reason to believe it is not in a safe operating condition.
- C. On occasion the size of a funeral procession may require additional officers to be utilized to provide a safe escort. In the interest of safety, off-duty officers may request assistance from the on-duty patrol supervisor to assist with an escort if call load allows.

#### **IX. LERE COURTESY OFFICERS**

Officers receiving discounted rent in exchange for service as a security/courtesy officer are considered to be working LERE. Officers are prohibited from "unofficially" accepting discounted rent or reduced rental rates in exchange for these services.

- A. Any employment as a courtesy officer must be approved as LERE.
- B. Officers shall not respond to, while on-duty, to complaints at any property for which they are employed unless dispatched to that location by Communications or authorized by an RPD supervisor.
- C. Courtesy officers shall confine their duties to those of a law enforcement nature. Notifications of evictions, collection of rent, bad checks, and enforcement of complex rules, regulations or policies that are not violations of the law are strictly prohibited.

#### **X. COORDINATORS AND SUPERVISORS OF SECONDARY EMPLOYMENT OTHER THAN CITY OVERTIME**

- A. Employees cannot recruit or solicit persons or organizations for, nor advertise for or accept, any secondary employment while on duty or in uniform.
- B. Only the secondary employer is allowed to pay an employee for secondary employment. If payment is made through checks executed from the employer to individual employees, one employee may pick up and distribute checks other than their own. However, under NO circumstances shall any employee accept cash payment intended for anyone other than themselves. The coordinator shall not

receive any fee or “cut” from the other employees for their action as the coordinator.

- C. Employees serving as coordinators of secondary employment assignments (e.g., who submit the “Initial Application”) shall act only as administrative liaisons between the employer and the other employees working for the employer. Coordinators will not exercise hiring and firing authority over other employees working for the secondary employer. Only employers may hire or terminate employees.
- D. The initial application holder will determine the number of officers needed for an assignment.
- E. Anytime that an officer of supervisory rank within the Department is engaged in LERE assignments with other employees, their role and responsibilities in the LERE assignment will be commensurate with the authority of their regular duty.

## **XI. SUPERVISORY RESPONSIBILITIES**

It is the duty and responsibility of each supervisor in an employee’s chain-of-command to monitor any secondary employment activities of their subordinates to ensure compliance with this policy. Failure to do so, and to take corrective action as may be needed, will be considered dereliction-of-duty on the part of that supervisor.

## **XII. SECONDARY EMPLOYMENT DOCUMENTS**

Employees desiring to engage in secondary employment other than City Overtime will have the following forms completed, approved, and on file with the department and HR:

### **A. Request for Secondary Employment**

1. This document must be completed and signed by each employee.
2. Employees engaging in Non-LERE employment are required to complete this document for each business they are affiliated with.
3. Initial LERE and Non-LERE applications are valid for a maximum of one (1) year from the date issued, with all related documents and subsequent applications for that same employment expiring simultaneously.
4. The business and the owner(s) for whom the application applies will be the subject of a background investigation conducted through the Department’s Professional Standards Division.
  - a. The department will mark „Not Acceptable” on the application if the business and/or owner(s) are found to have been:

- (i) Convicted of any felony,
  - (ii) Affiliated with persons known to have a criminal record, or
  - (iii) Engaged, or planning to engage in, criminal activity.
- b. If the employment relationship is denied at this point, the Department and/or HR will notify the employee that “The relationship would not be in the best interest of the Department at this time.” The original paperwork, clearly marked as “DENIED” will be retained by the Department and HR.
  - c. The Chief has final authority in decisions to accept or deny any prospective employer/business.
5. For all sworn officers, approval must proceed up to the next level in the Chain of Command, and then forwarded to the Chief of Police. Applications are effective upon signature of the Chief, as required.
  6. Unless disapproved by ultimately the Chief of Police, the originals will be forwarded to the City of Rosenberg HR.
  7. If approval is denied by anyone in the chain-of-command, the immediate supervisor will:
    - a. Notify the employee that the application has been denied;
    - b. Ensure that the paperwork is clearly marked as “DENIED” with an explanation as to the reason;
    - c. Retain a photocopy of all paperwork; and
    - d. Return the original document(s) to the City of Rosenberg-HR.

### **XIII. REVOCATION OF SECONDARY EMPLOYMENT PRIVILEGES**

#### **A. Guidelines**

1. Authorization for secondary employment of any employee may be revoked at any time by any supervisor in the employee’s chain-of-command when specific, documented evidence indicates such action is in the best interest of the Department.
2. Revocation will be documented and the employee notified in writing. IF POSSIBLE, WITHOUT COMPROMISING ANY ON-GOING CRIMINAL INVESTIGATION, the employee will be given the reason for the revocation.
3. The employee will acknowledge receipt of the notification by initialing the notice.

4. After the employee initials the notice, a copy will be given to them, a copy of the revocation will be maintained by the immediate supervisor and the original forwarded to City of Rosenberg-HR.
5. The Chief of Police has the final revocation decision of any Secondary Employment.

#### B. Reasons for Revocation

The following are examples of some grounds for revocation of secondary employment privileges. This list is for example purposes only, and is not intended to be exclusive of other reasons not contained therein.

1. Apparent abuses of sick leave;
  2. Sleeping or being inattentive on duty;
  3. Tardiness due to conflicts in work schedules;
  4. Damages to the reputation of the Department;
  5. Acts of misconduct associated with the secondary employment;
  6. Repeated physical injuries incurred during secondary employment;
  7. Evidence of debilitating stress from the secondary employment;
  8. Conflicts of interest that may develop or become known after approval of the employment was granted.
- C. Failure to comply with the TCLEOSE firearms qualification standards will result in immediate revocation or denial of secondary employment.
- D. Employees who have been placed on disciplinary probation will result in immediate revocation or denial of secondary employment until the end of the probation.
- E. Failure to comply with the mandatory physical fitness standards will result in immediate revocation or denial of secondary employment.