




WINCHESTER POLICE DEPARTMENT OPERATION ORDER

NOTE: This policy 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 case in an evidentiary sense, with respect to third party claims. Violation of this policy, if proven, can only form the basis of a complaint by this Department, and then only in a non-judicial administrative setting.

Number 1-24		Effective Date March 20, 2023	Review Date December 31, 2021	Reviewing Division Administration
Subject NON-REGULAR EMPLOYMENT		<input checked="" type="checkbox"/> New Policy <input type="checkbox"/> Amends <input type="checkbox"/> Replaces:		This policy shall apply to personnel assigned to the following divisions: <input checked="" type="checkbox"/> All Personnel <input type="checkbox"/> Patrol Division <input type="checkbox"/> Administration Division <input type="checkbox"/> Investigation Division
References VLEPSC: PER.04.02 CALEA				
 _____ Chief of Police or Designee		_____ March 20, 2023 Date		

I. PURPOSE

The purpose of this policy is to define regulations pertaining to non-regular employment.

II. POLICY

Sworn personnel are permitted and, with respect to departmental overtime, sometimes required to engage in non-regular employment activities to enhance public safety and further the mission of the Department. The activities shall be within the legal authority of sworn personnel without adversely affecting the officer’s on-duty efficiency. The activities must be in compliance with the Fair Labor Standards Act and the Virginia State and Local Government Conflict of Interests Act.

Non-Regular Employment is described as employment occurring outside the normal work schedule that is dependent upon the law enforcement authority granted to the employee by the Commonwealth of Virginia or City of Winchester.

III. DEFINITIONS

A. Departmental Overtime

An unplanned type of non-regular employment that is paid by the City of Winchester at an overtime rate pursuant to the City of Winchester Employees Manual. It includes non-scheduled court dates and incident overages. Non-scheduled court dates are circuit court appearances and subpoenas for dates that are not on the officer’s court calendar.

B. Secondary Employment

A type of non-regular employment compensated by a vendor other than the City of Winchester, authorized by the Chief of Police or designee, which may require the officer to exercise their law enforcement authority granted by the Commonwealth of Virginia and City of Winchester.

IV. PROCEDURES

A. General

1. All secondary employment assignments will have a pre-determined minimum rate which is applicable to all officers, regardless of rank. The minimum rate of pay will be established by the Chief of Police or his/her designee, and reviewed on an annual basis.
2. Recruit officers while in the academy or field training, officers on modified or light duty, and sworn personnel above the rank of Lieutenant are not permitted to work secondary employment. Officers placed on modified duty may be permitted to work secondary employment upon approval of the Chief of Police.

B. Restrictions on Non-regular employment

1. On-duty and non-regular employment shall not exceed 16 hours within the 24-hour day and 124 hours within the pay period. For the purpose of computing allowable work time, scheduled court appearances and sick leave constitute on-duty time. Scheduled court dates shall be counted as two hours when planning the limitations described in this section.

The 24-hour day begins when an officer starts any form of on-duty or non-regular employment. The 16 hour limit does not include departmental overtime. However, the 124 hour limit in a pay period does include departmental overtime. All officers must have an uninterrupted, eight hour rest period within every 24-hour period. Exceptions to this section can be made by the Division Commander on a case by case basis, if necessary to fulfill a critical mission of the Police Department.

2. Secondary employment is restricted to the boundaries of the City of Winchester. When approved by the Chief of Police or designee, officers may perform law enforcement duties beyond the boundaries of the City of Winchester if working in conjunction with another jurisdiction's regular law enforcement agency and after having been duly sworn as a law enforcement officer in that jurisdiction.
3. No employee shall, while on or off duty, solicit any person or business for the purpose of gaining secondary employment.

4. The Department uniform shall be worn while engaged in secondary employment, unless specifically authorized by the Chief of Police.
5. Employees will not be permitted to take leave in order to work non-regular employment.
6. When an officer utilizes sick leave for personal illness, they are prohibited from working any non-regular employment for that 24-hour period. (For example, an officer working 1800–0600 shift calls in sick for a personal illness; the officer is then prohibited from working any secondary employment until 1800 the next day.)

C. Administration

1. The Chief of Police may revoke permission to work non-regular employment if the employee fails to perform adequately on-duty or receives disciplinary action. Resumed permission to work non-regular employment is contingent upon remaining in good standing.
2. The officer's cancellation of non-regular employment can occur up to seven days before the assignment. It is the officer's responsibility to find a replacement for the assignment. If it goes unfulfilled 24 hours prior to the assignment, the officer must notify the on-duty supervisor. Emergency cancellations that occur during the 24 hours prior to the assignment require immediate notification to the on-duty supervisor. When cancellations are made to the on-duty supervisor, a determination must be made on how to or whether to staff the assignment.

D. Additional Requirements

1. The Department recognizes that an officer engaged in non-regular employment may undertake an action connected with the employment that the courts may construe as a law enforcement duty, and therefore an extension of the job. Officers are reminded that their off-duty performance must follow the same standards required for on-duty.
2. Any secondary employment assignment that require the use of five or more officers will also require the assignment of one supervisor at a rank of Corporal through Lieutenant.