



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Christopher M. Moore  
Chief of Police

**SUBJECT:** SIX MONTH STATUS REPORT  
SAN JOSE POLICE DEPARTMENT  
SECONDARY EMPLOYMENT UNIT

**DATE:** October 9, 2012

Approved

Date

10/17/12

## RECOMMENDATION

Accept this six-month status report on the San Jose Police Department's Secondary Employment Unit.

## OUTCOME

The City Council will be apprised of staff's progress in updating the Secondary Employment Unit policy, responses to the City Auditor's recommendations, and provide Council with a copy of the revised SEU Policy.

## BACKGROUND

On March 7, 2012, the City Auditor presented a report titled, Police Department Secondary Employment: Urgent Reform and a Cultural Change Needed to Gain Control of Off-Duty Police Work, to the Public Safety, Finance & Strategic Support Committee (PSFSS).

On April 17, 2012, Council accepted the City Auditor's report on the Police Department's Secondary Employment Unit (SEU). Police Department staff was directed to: return to Council in six months to provide status on the policy and audit recommendations; provide copies of the Secondary Employment Policy to Council; and include Secondary Employee Coordinators in the biannual Conflict of Interest code review.

On September 20, 2012, the Public Safety, Finance and Strategic Support Committee accepted the City Auditor's Semi-Annual Recommendation Follow-Up Report on All Outstanding Audits.

Included in this report was the update on the audit recommendations for the Police Department's Secondary Employment Unit. For a complete update on those recommendations, see attached report from the City Auditor.

## ANALYSIS

Prior to the audit, an internal review of SEU procedures was already underway. After a thorough review, Chief Moore approved 59 changes to the new SEU policy. On April 18, 2012, this policy took effect and was distributed department-wide. Some of the changes to the policy addressed issues that were also noted in the Auditor's March audit report. See attached SEU Policy Memorandum 2012-013 for the complete list of changes and updates to the San Jose Police Department's SEU procedures.

### Policy Highlights

**C 1503** A department member engaged in secondary employment is subject to recall to duty and is expected to leave his/her secondary employment assignment when recalled to duty by a competent authority.

**C 1513** Any uniformed secondary employment assignment not coordinated by the Secondary Employment Unit shall have a current department member designated as a "coordinator." The coordinator will act as a liaison with the Secondary Employment Unit to ensure the assignment is in compliance with Department policies and procedures.

**C 1517** When a supervisor or command officer receives an "Application for Outside Work Permit," they are required to evaluate the department member's on-duty work performance prior to giving approval. Supervisors must check the department member's Personnel file, Training file, and Internal Affairs' file. Supervisors and command officers shall be responsible for ensuring that secondary employment does not interfere with the member's on duty performance.

**C 1521** The Chief of Police or designee has the right to suspend, revoke, modify or deny any secondary employment.

**C 1540** Department members shall not work in excess of twenty-four (24) hours of secondary employment assignments in one calendar week (Sunday-Saturday). However, during a week where the member uses compensatory time, holiday time, or vacation time, the member may increase the amount of secondary employment hours by the amount of compensatory time, holiday time, or vacation time taken.

**C 1541** To address the overall health and safety of officers and to ensure that the City receives efficient performance of the officer's duties in City employment, department members shall not work in excess of sixteen (16) hours in a twenty-four (24) period. Department members shall not work a combination of his/her regular shift plus a secondary employment assignment in excess of 16 hours in a 24 hour period. The 16 hour work day begins with the start of the first shift worked regardless if the first shift is a secondary employment assignment or the member's regular Department shift.

**C 1542** Patrol briefings are an integral part of the Department's communication to officers of organizational and officer safety information and are expected to be attended prior to the start of an officer's field shift. As such officers shall not miss briefing or arrive late to their regular department shift to accommodate a secondary employment assignment. Nor shall they take beginning of shift time off in order to miss briefing and accommodate a secondary employment assignment.

**C 1543** Officers will report all hours of secondary employment worked (uniformed, non-uniformed and Department sponsored special overtime assignments) on the "SECONDARY EMPLOYMENT TRACKING FORM." Forms will be submitted biweekly with the officer's timesheet. Supervisors will review and sign the form. Unit or Area Commanders will be required to review and sign the form anytime the reported hours worked exceed 24 hours in one week.

**C 1547** Officers working a uniformed secondary employment assignment, or a non-uniformed secondary employment security assignment in the City of San Jose, shall contact communications and "log on" to CAD. Officers will provide Communications with their badge number, location, nature of assignment (e.g., traffic control, condo complex security, school security, etc.), a cell phone number where they can be reached, and an expected O.D. time. At the completion of their assignment, officers must contact Communications and "log-off." Provide a brief statement describing any performance measures this project addresses.

#### Auditor Recommendations

The March 2012 audit resulted in 30 recommendations for the Police Department's secondary employment program. On September 20, 2012, the City Auditor provided PSFSSC an update of the audit recommendations and police response. To date, 1 recommendation has been fully implemented, 22 are partly implemented, and 7 have not been implemented.

The Department revised its SEU policies and procedures, addressing many of the concerns addressed by the City Auditor. Many of the Auditor's recommendations involve better oversight and supervision, internal auditing functions, and periodic review of employee timecards. While the Department agrees with most of the recommendations, the majority of the recommendations are only partially implemented as additional staff is required to complete the functions identified. Currently, SEU operates with one sergeant and one office specialist. In order to alleviate some of the workload for the SEU sergeant, traffic control for road construction is now coordinated as a collateral duty by the Permits Unit sergeant.

The Department continues to evaluate alternative solutions to improving SEU operations, including new technology. The Department recently submitted a Request for Proposal to implement a shift bidding and workplace scheduling software and technology based solution. This may create efficiencies with auditing, tracking and oversight by SEU.

October 9, 2012

Subject: Six-Month Status Report - SEU

Page 4

While technology may assist the Department with improving internal controls, the level of staffing in SEU is clearly not sufficient to properly manage the work flowing through the unit. The Department will continue to work with the City Manager's Office to identify alternative solutions and resources to adequately manage the program and fully implement the recommendations by the City Auditor.

### **EVALUATION AND FOLLOW-UP**

The Department's Secondary Employment completed the revision of its policy. The policy was implemented April 18, 2012. SEU has identified the coordinators for SEU employers and is working with the City Clerks Office with adding the names to the biannual Conflict of Interest code review.

### **PUBLIC OUTREACH/INTEREST**

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This recommendation does not meet any of the criteria listed above. This memorandum will be posted on the City's Internet website for the October 30, 2012, Council Agenda.

### **COORDINATION**

This memorandum has been coordinated with the City Managers Office.

HONORABLE MAYOR AND CITY COUNCIL

October 9, 2012

**Subject: Six-Month Status Report - SEU**

Page 5

**CEQA**

Not a project, File No. PP10-069(a), Staff report.

*/s/*

CHRISTOPHER M. MOORE

Chief of Police

For questions please contact Lt. Thomas Sims, SEU Commander, at 408-537-1677.

Attachments: Secondary Employment Unit Policy  
City Auditor Six-Month SEU update audit report.

# Memorandum

**TO: ALL SWORN PERSONNEL**

**FROM:** Christopher M. Moore  
Chief of Police

**SUBJECT: DUTY MANUAL REVISION  
C 1500 Secondary Employment**

**DATE:** April 18, 2012

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Approved

Date 2012-013

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## **BACKGROUND**

On March 7, 2012, the San Jose City Auditor released an audit that was conducted of the Secondary Employment Program within the San Jose Police Department. Prior to this audit, an internal review of the Secondary Employment procedures was already underway. Based on a collaborative effort between the City Council, the Department and the Auditor's Office, the following procedures have been changed.

## **ANALYSIS**

Changes to the San Jose Police Duty Manual Section C 1500 Secondary Employment, are reflected below; revisions are denoted in italics:

### **C 1500 SECONDARY EMPLOYMENT:**

Revised 04/18/12

Acceptance of a full-time paid position with the City of San Jose is accompanied by the mutual concurrence that the employment is to be the member's primary job. If supplemental employment is sought, such is considered to be secondary in importance and subject to the approval of the City. Therefore, all outside or supplemental employment is subject to review by the City to determine if the *department* member's efficiency and effectiveness would be impaired by such outside employment, or the secondary employment would be incompatible with the member's City employment.

## **PROCEDURE**

### **C 1501 SECONDARY EMPLOYMENT:**

Secondary employment activity is any work, employment or occupation performed by a department member in addition to his or her City work activities including, but not limited to, law enforcement-related activities or businesses.

**C 1502 SECONDARY EMPLOYMENT CONDUCT:**

Revised 04/18/12

When authorization is granted to engage in secondary employment, *department members* are reminded that they are subject to the same rules and regulations of the Duty Manual as are on-duty *members* including, but not limited to, the application of DM Section C 1803 (Specific Conduct Subject to Disciplinary Action).

**C 1503 SECONDARY EMPLOYMENT AND RECALL TO DUTY:**

Revised 04/18/12

A *department member* engaged in secondary employment is subject to recall to duty and is expected to leave his/her secondary employment assignment when recalled to duty by competent authority.

**C 1504 SECONDARY EMPLOYMENT LAW ENFORCEMENT:**

Revised 04/18/12

The legal authority vested in an officer while working in a San Jose Police uniform in a law enforcement or security capacity for a secondary employer is limited to the enforcement of local and state laws. Officers may act to prevent a breach of the peace or to enforce the law, but officers shall not use their police authority to enforce a secondary employer's policies and regulations.

Officers are reminded that when working a uniformed secondary employment assignment, citizens do not differentiate on-duty officers from officers working a secondary employment assignment. When working secondary employment assignments, officers have a responsibility to take proper action when violations of the law are observed by them or come to their attention, whether or not the law violation is related to their secondary employment assignment.

**C 1505 SECONDARY EMPLOYMENT OBJECTIVITY AND IMPARTIALITY:**

Revised 04/18/12

When working secondary employment assignments for a private employer, officers must maintain their objectivity and impartiality. Officers are required to take appropriate action in response to observed violations whether such violations are committed by the authorized employer, his/her agent, or members of the general public.

Officers shall not work a uniformed secondary employment assignment for a private employer in which the officer has a monetary interest, family interest, is part owner, or is employed in any capacity other than the secondary employment role.

**C 1506 SECONDARY EMPLOYMENT OFF-DUTY UNIFORM PAY:**

Revised 04/18/12

The Chief of Police has the sole authority to set the pay scale for uniformed (including any modified uniformed assignments) secondary employment assignments. The intention of a standard hourly wage is to establish a uniform pay scale for all officers working in a uniformed secondary employment capacity. Officers are prohibited from negotiating pay rates or deals for uniformed secondary employment assignments.

*Sergeants and lieutenants are prohibited from charging supervisor fees unless they are working a uniformed secondary employment assignment with officers who they are actively supervising. The officer rank is prohibited from charging supervisor fees at any time while working or coordinating a secondary employment assignment.*

*Fees for coordination duties are not subject to the uniform pay scale. Officers are prohibited from representing the uniform pay scale as a mandatory fee for coordination duties. An officer may volunteer his/her time, receive paid compensation, or have priority in scheduling him/herself in exchange for coordinator duties. "Coordination duties" are defined as non-law enforcement, clerical duties and staff work related to the assignment that is performed on behalf of the secondary employer. Coordination duties include, but are not limited to, staffing, scheduling, meetings, and billing.*

*Pay rates for officers working plain clothes secondary employment assignments are not subject to the uniform pay scale.*

**C 1507 UNIFORMED SECONDARY EMPLOYMENT CASH PAYMENTS:**

*Revised 04/18/12*

*Officers working a uniformed secondary employment assignment are prohibited from accepting cash payment for their services.*

*Any exceptions to this policy must be approved in writing by the Secondary Employment Unit commander prior to the secondary employment assignment. The memorandum approving the exception to this policy shall be maintained by the SEU commander. The Chief of Police shall have final authority over exceptions to this policy.*

**C 1508 SECONDARY EMPLOYMENT VOLUNTEER TIME:**

*Revised 04/18/12*

*An officer may volunteer his/her time to provide uniformed security at charitable causes occurring in the City of San Jose. Charitable causes are defined as non profit events 501(c)(3), community and public gatherings, and school events. When working a uniformed volunteer position, an officer is subject to all Department policies, including having a valid work permit on file at SEU, and enrollment in the Law Enforcement Liability Insurance Program.*

*An officer shall not work a uniformed secondary employment assignment in which he/she volunteers a portion of his/her hours and is paid for another portion of his/her hours.*

*EXAMPLE: An officer working a uniformed 4 hour shift at a special event at their child's school cannot get paid for 2 hours of the shift and volunteer for the remaining 2 hours. The officer must either be paid for 4 hours or volunteer for 4 hours.*

*Volunteer hours worked in uniform are included in the limit of authorized secondary employment hours a member may work in a week. Volunteer hours worked in uniform shall be noted on the member's secondary employment tracking sheet.*

**C 1509      REQUESTS FOR SECONDARY EMPLOYMENT REFERRED TO  
SECONDARY EMPLOYMENT UNIT:**

*Revised 04/18/12*

*Department members will refer all requests from potential outside employers to the Secondary Employment Unit. The Secondary Employment Unit shall be responsible for conducting a preliminary interview with the individual or business and, if they wish to hire department members, for providing the necessary paperwork.*

**C 1510      SOLICITATION FOR SECONDARY EMPLOYMENT:**

*Revised 04/18/12*

*While on-duty or in uniform, department members shall not solicit any type of secondary employment.*

*Department members, whether on-duty or off-duty, are prohibited from soliciting any uniformed secondary employment assignments.*

*Department members, whether on-duty or off-duty, are prohibited from soliciting any change in personnel from individuals or businesses who currently employ other department members in secondary employment assignments.*

*All inquiries regarding secondary employment will be referred to the Secondary Employment Unit.*

*Any violations of this policy should be immediately reported to the commander of the Secondary Employment Unit.*

**C 1511      APPLICATION PROCESS TO HIRE OFF DUTY OFFICERS  
SECONDARY EMPLOYMENT APPROVAL (SJMC CHAPTER 8.16):**

*Revised 04/18/12*

*Persons (including individuals and business entities) who wish to hire off duty San Jose police officers, including but not limited to, any uniformed or non uniformed security, patrol, private investigation or surveillance, traffic control, body guard, or other law enforcement related or security related services must complete a secondary employment approval application pursuant to SJMC Section 8.16.020 and submit it to the Secondary Employment Unit. SEU shall conduct an investigation of the application to verify the information provided in the application and to determine that the secondary employer is operating in compliance with applicable provisions of the Municipal Code and all other applicable local, state and federal laws and regulations. The Chief of Police shall approve an application for secondary employment approval only if the secondary employment is compatible with off-duty officer or reserve officer status with the Department, the secondary employment is operated in compliance with the requirements of Federal, State and local law and regulations, the secondary employment complies with all Department secondary employment policies, and the secondary employer has not in the past failed to meet all the terms and conditions set by the Chief of Police on any secondary employment approval.*

*Secondary employment approval is also subject to the following terms and conditions:*

- 1. The secondary employer must maintain records of each officer's hours of work in a format approved by the Chief of Police and shall make those records available for review by the Chief of Police during business hours;*
- 2. The secondary employer shall authorize inspection of the business premises during business hours for the purpose of assuring that the premises and he business are in compliance with the terms and conditions of approval and all applicable laws and regulations;*
- 3. The secondary employer must execute an indemnification agreement with the City as set out in SJMC Section 8.16.070(C);*
- 4. Any other terms and conditions on the secondary employment approval as the Chief of Police determines are necessary in order to insure that the secondary employment does not conflict with city employment.*

*The Secondary Employment Unit commander shall be responsible for determining whether or not a person or business shall be accepted by the Department as an authorized secondary employer. The Chief of Police shall have final authority in determining whether or not a person or business will be accepted as an authorized secondary employer.*

*Officers working security related (uniformed or plain clothes) secondary employment are prohibited from working for any employer that has not been authorized as a secondary employer by the Chief of Police.*

**C 1512 DEPARTMENT RIGHT TO DENY, SUSPEND, REVOKE, SECONDARY EMPLOYER APPROVAL:**

*Revised 04/18/12*

*The Department retains the right to deny, suspend, or revoke secondary employer approval for any site, business or employment on the grounds set out in SJMC Section 8.16.050:*

- A. The secondary employer is not operating the business in compliance with the requirements of applicable provisions of this Code or any other applicable local, state or federal law or regulation.*
- B. The secondary employer does not comply with all the requirements of the police department policy governing secondary employment.*
- C. The secondary employer has failed to meet all the terms and conditions set by the Chief of Police on the secondary employment approval.*
- D. Continuation of the secondary employment is not in the best interest of the police department or the city.*

*If a Secondary Employment Unit audit or inspection at a secondary employment site reveals non-compliance with department policies and procedures, the commander of the Secondary Employment Unit shall have the authority to bring the site under the control of the Secondary Employment Unit.*

*The Chief of Police shall have final authority over all secondary employment sites.*

**C 1513      SECONDARY EMPLOYMENT COORDINATOR POSITION:**

*Revised 04/18/12*

*Any uniformed secondary employment assignment not coordinated by the Secondary Employment Unit shall have a current department member designated as a "coordinator." The coordinator will act as a liaison with the Secondary Employment Unit to ensure the assignment is in compliance with Department policies and procedures. A coordinator's duties may include, but are not limited to, staffing and scheduling associated with the secondary employment assignment. The coordinator's duties may also include any record keeping required by the commander of the Secondary Employment Unit. Coordinators shall attend any training required by the Secondary Employment Unit.*

*The coordinator's position is subject to the approval of the commander of the Secondary Employment Unit. A coordinator is subject to removal from his/her position, if he/she does not comply with policies and procedures required of his/her position. The Chief of Police shall have final authority over the appointment or removal of a coordinator from his/her position.*

*The Chief of Police shall have the authority to appoint lieutenants to coordinator positions, which he/she identifies as key secondary employment sites in the City. The commander of the Secondary Employment Unit shall be responsible for the selection process and making a recommendation for the position to the Chief of Police; the Chief of Police shall have final authority over the appointment. The selection process shall consist of an email announcement to all eligible lieutenants. Each interested candidate shall be interviewed by the commander of the Secondary Employment Unit before he/she makes a recommendation to the Chief of Police.*

*Any lieutenant appointed to a coordinator position by the Chief of Police shall serve in the position for one year with an option for one additional year. The additional year shall be granted at the discretion of the Chief of Police with input from the employer. The assignment shall not exceed two years. A lieutenant who has served a one or two year term shall be eligible to again serve as a coordinator after a period of one year.*

*Coordination of secondary employment assignments is prohibited when a department member is on-duty.*

*EXCEPTION: City sponsored events, events at City owned facilities, and other events coordinated through the Secondary Employment Unit may be coordinated by a department member while on-duty. Tasks associated with the coordinator shall not interfere with the performance of a member's primary duties and responsibilities.*

**C 1514      SECONDARY EMPLOYMENT BROKERS:**

*Revised 04/18/12*

*Officers are prohibited from working uniformed secondary employment assignments that utilize a broker. Officers are prohibited from acting as brokers for secondary employment assignments. (A broker is defined as a person who receives compensation to function as an intermediary between a department*

*member and a private individual or business in negotiating agreements or who receives a finder's fee or other compensation for recruiting)*

**C 1515      *OUTSIDE WORK CITY SPONSORED/OWNED AUTHORIZATION:***

*Revised section number 04/18/12 (old number C1508)*

*The Secondary Employment Unit has sole responsibility for coordinating and staffing all City-sponsored events and all events occurring at City-owned facilities. Individual department members shall not coordinate and/or staff City-sponsored events or events occurring at City-owned facilities without the approval of the Secondary Employment Unit Commander.*

**C 1516      *APPLICATION FOR AUTHORIZATION FOR SECONDARY EMPLOYMENT – WORK PERMIT REQUIREMENT:***

*Revised 04/18/12*

*Department members will apply for authorization to perform outside work on an "Application for Outside Work Permit," which may be obtained from the Secondary Employment Unit webpage. Department members must submit copies of the appropriate permits, licenses, credentials, etc., which are required by federal, state, or local laws or ordinances applicable to the specific employment for which they are applying. Applications for permits, licenses, credentials, etc., are insufficient when submitting a work permit; a copy of the permit, license, credential, etc., must be submitted with the Application for Outside Work Permit. Incomplete applications shall not be approved and will be returned to the originator. Officers are subject to all the requirements of Chapter 1.2.3 of the City Administrative Policy Manual concerning outside employment.*

*Department members are prohibited from engaging in any outside employment until final approval has been granted by the Secondary Employment Unit Commander.*

**C 1517      *EVALUATION OF ON DUTY PERFORMANCE PRIOR TO AUTHORIZING SECONDARY EMPLOYMENT:***

*Revised 04/18/12*

*When a supervisor or command officer receives an "Application for Outside Work Permit," they are required to evaluate the department member's on duty work performance prior to giving approval. Supervisors must check the department member's Personnel file, Training file, and Internal Affairs' file.*

*Supervisors and command officers shall be responsible for ensuring that secondary employment does not interfere with the member's on duty performance.*

*Improper use of sick leave, tardiness, non-compliance with mandatory department training, or the failure to satisfactorily perform their job will be considered when reviewing a request for secondary employment.*

**C 1518 SUSTAINED MISCONDUCT COMPLAINT:**

*Revised section number 04/18/12 (old number C1526)*

*When a member receives a sustained misconduct complaint, the Office of Chief will review the member's current secondary employment authorizations and determine if it is necessary to modify, suspend, or revoke the authorizations due to the member's misconduct.*

**C 1519 LIABILITY INSURANCE PROGRAM:**

*Revised 04/18/12*

*Officers engaged in law enforcement or security related secondary employment, whether in uniform or plain clothes, must participate in the Law Enforcement Liability Insurance Program with the City. This includes secondary employment of short, temporary duration and received through commanding officers or the Secondary Employment Unit.*

**C 1520 OBTAINING AUTHORIZATION:**

*Revised 04/18/12*

*Upon application of a department member, the Chief of Police or designee may authorize secondary employment subject to the following terms and conditions:*

*- Entry level probationary department members shall not engage in any law enforcement or security related secondary employment.*

*EXCEPTION: With the approval of the Field Training Program Commander, a Phase II probationary officer may be assigned to work a Special Overtime Assignment. The assignment must be for a specific reason related to the probationary officer's training and not because his/her Field Training Officer is working the assignment. The reason the probationary officer working the assignment shall be documented on his/her Daily Observation Report (DOR). Any probationary officer working a Special Overtime Assignment must be accompanied by his/her Field Training Officer at all times.*

*- Department members of the rank of sergeant may work in uniformed, security related secondary employment assignments coordinated through the Secondary Employment Unit, which would normally be filled by an officer. However, the sergeant shall not receive compensation above what an officer would make for the same assignment.*

*The secondary employment or occupation does not conflict with the member's City employment or existing law.*

*- The secondary employment or occupation is not detrimental to the Department or City.*

*- The secondary employment or occupation will not impede the efficient performance of the employee's assigned duties.*

*The secondary employment or occupation meets all of the requirements of DM Chapter C 1500 (Secondary Employment).*

*- All appropriate state and local laws and ordinances have been met, including the regulatory requirements of the California Department of Consumer Affairs.*

*- The Chief of Police is authorized to attach any other terms or conditions to a secondary employment approval that the Chief determines to be in the best interest of the Department/City.*

**C 1521      *SUSPENSION, REVOCATION, OR DENIAL OF SECONDARY  
EMPLOYMENT AUTHORIZATION:***

*Revised 04/18/12*

*The Chief of Police or designee has the right to suspend, revoke, modify or deny any secondary employment.*

**C 1522      *SECONDARY EMPLOYMENT AND SECONDARY EMPLOYMENT  
PERSONNEL:***

*Revised 04/18/12*

*The commander of the Secondary Employment Unit shall not work any secondary employment assignments.*

*EXCEPTION: The Secondary Employment Unit Commander may work as an instructor at an accredited school or university or as a speaker at a law enforcement-related conference or seminar.*

*Any exceptions to this policy must be approved by the Chief of Police in writing.*

*Officers who are assigned to the Secondary Employment Unit shall not work any uniformed or security related secondary employment assignments.*

*EXCEPTION: Officers assigned to the Secondary Employment Unit may work secondary employment assignments coordinated by the Secondary Employment Unit with the approval of the Secondary Employment Unit Commander.*

*When granting approval for Secondary Employment Unit members to work events, the commander of the Secondary Employment Unit may consider the amount of time his/her staff has been involved in pre-event planning, the availability of officers to staff the event, the size of the event, and whether or not the event is a "first time" event.*

*Any other exceptions to this policy must be pre-approved by the Chief of Police in writing.*

**C 1523      *SECONDARY EMPLOYMENT COMMAND OFFICERS:***

*Revised 04/18/12*

*Officers of the rank of captain and above shall not engage in any uniformed (including any modified uniformed assignments) secondary employment.*

*The commander of the Internal Affairs' Unit shall not engage in any secondary employment assignments.*

*EXCEPTION: The Internal Affairs' Commander may work as an instructor at an accredited school or university or as a speaker at a law enforcement-related conference or seminar.*

*Any exception to this policy must be approved by the Chief of Police in writing.*

*Lieutenants may work secondary employment; however, when working uniformed secondary employment assignments they may only work assignments*

*which require a command officer and shall not fill positions which would normally be filled by an officer or sergeant.*

*Any exceptions to this policy must be pre-approved by the Chief of Police in writing.*

**C 1524 SECONDARY EMPLOYMENT RESERVE OFFICERS:**

*Revised 04/18/12*

*Reserve officers are prohibited from working any uniformed secondary employment assignment other than assignments coordinated through the Secondary Employment Unit.*

*The Secondary Employment Unit shall give current officers priority when making assignments; any assignments which cannot be filled with current members shall be made available to Reserve Officers.*

**C 1525 OUTSIDE WORK PERMIT LENGTH OF AUTHORIZATION:**

*Revised 04/18/12*

*The secondary work authorization is valid for a period of one year, unless canceled sooner by the Chief of Police or designee. Members shall reapply for secondary employment authorization on the date their annual appraisal is due or when directed to do so by the Chief of Police, his/her designee, or anyone in the member's chain of command.*

*Reserve officers will renew their work permit on February 1st every year or when directed to do so by the Chief of Police, his/her designee, or anyone in the reserve officer's chain of command.*

**C 1526 WEARING OF UNIFORM FOR SECONDARY EMPLOYMENT ASSIGNMENTS:**

*Revised section number 04/18/12 (old number C1512)*

*The same requirements regarding the wearing of the uniform by on duty officers applies to off duty officers working for secondary employers.*

**C 1527 WEARING OF UNIFORM DURING SECONDARY EMPLOYMENT AT SCHOOLS:**

*Revised section number 04/18/12 (old number C1513)*

*All officers who work secondary employment at any school may do so in full San Jose Police uniform or in the approved school uniform, as described in the San Jose Police Department Uniform and Equipment Manual, at the discretion of the school.*

**C 1528 SECONDARY EMPLOYMENT PLAIN CLOTHES ASSIGNMENTS:**

*Revised 04/18/12*

*Officers may work security related plain clothes secondary employment assignments after obtaining any necessary State or other permits, including, but not limited to, a Guard Card and, if armed, a Firearm Permit. Officers must also have a valid work permit on file with the Secondary Employment Unit and be enrolled in the City's liability insurance program.*

*Officers shall not exercise their police powers while working plain clothes secondary employment assignments.*

*Officers shall not use their Department issued equipment during plain clothes assignments with the exception of their soft body armor and hand pack (see Section C 1544).*

*Officers are prohibited from accessing any Department databases while working a plain clothes secondary employment assignment (see Duty Manual Section C2000).*

*Officers working off-duty, in plain clothes and armed, must possess a Private Patrol Operator's (PPO) license, be an employee under a PPO license, or be an employee of a company that is using the officer as plain clothes armed security. As an employee, officers must be receiving a W-2 Tax Form and not a 10-99 Tax Form (See Department Memorandum 2001-025).*

**C 1529      **SECONDARY EMPLOYMENT SUBSIDIZED HOUSING:****

*Revised 04/18/12*

*Any officer who receives subsidized housing in return for security services is engaging in secondary employment. Any officer who receives subsidized housing shall have a valid work permit on file with the Secondary Employment Unit. Any time the officer spends engaged in security services in return for subsidized housing shall count toward the maximum hours a member may engage in secondary employment per week.*

**C 1530      **SECONDARY EMPLOYMENT OUTSIDE CITY OF SAN JOSE:****

*Revised section number 04/18/12 (old number C1524)*

*Officers may work secondary employment outside the City of San Jose as long as the officer is acting as a private citizen without exercising police officer powers in any manner.*

**C 1531      **UNAUTHORIZED OUTSIDE WORK:****

*Revised 04/18/12*

*All department members are prohibited from working in any of the following secondary employment situations:*

- At any employment or business which would in any way reduce the effectiveness of the member in performing assigned Departmental duties.*
- As a process server, bill collector, or in any employment in which police powers might be used for private purposes of a civil nature.*
- Any employment which may require the member to have access to or utilize police information files, records, or services as a condition for employment.*
- Any employment which assists in any manner the case preparation for the defense in any criminal action or proceeding.*

- *In police uniform in the performance of tasks other than those of a law enforcement nature.*
- *In police uniform while working for a Private Patrol Operator.*
- *At any employment which has a connection with the tow, taxi, massage, or ambulance business.*
- *At any employment which has a connection with bingo games, gambling fundraisers, or any other gambling establishment.*
- *At consecutive secondary employment assignments in which the first assignment ends at the same time as the second assignment begins, unless the assignments are at the same location. A member must allow a sufficient amount of travel time to arrive at his/her next assignment.*
- *At consecutive assignments in which the department member's regular assignment ends at the same time as the member's secondary assignment begins. A member must allow a sufficient amount of travel time to arrive at his/her secondary employment assignment.*
- *In police uniform at a location outside the City of San Jose.*

*EXCEPTION: Officers may be authorized by the Chief of Police or his designee to engage in secondary employment with Campbell Union High School District at Prospect High School, but only if the officers assigned to Prospect High School work in School District police uniform approved by the District pursuant to DM Section C 1527 (Wearing of Uniform During Secondary Employment at Schools).*

- *While off-duty, members are prohibited from performing any secondary employment which involves the investigation of a crime or accident (reported or not) that would create a conflict of interest or substantial appearance of impropriety with the member's on-duty assignment. The member's Chain of Command and the commander of the Secondary Employment Unit will evaluate the scope of secondary employment to determine if a conflict of interest or substantial appearance of impropriety exists.*

**C 1532      SECONDARY EMPLOYMENT WHERE ALCOHOLIC BEVERAGES ARE SERVED:**

*Revised 04/18/12*

*All officers are prohibited from providing law enforcement or security related services for any employer or establishment whose major business is the sale and/or service of alcoholic beverages, e.g., bars, nightclubs and liquor stores.*

*EXCEPTION: City of San Jose sponsored events and events which take place at City of San Jose owned facilities pursuant to DM Section C 1515 (Outside Work – City Sponsored/Owned Authorization).*

*When alcohol is sold or consumed at a City-sponsored events or City-owned facility, the Secondary Employment Unit is responsible for ensuring the sponsors*

*of the event have obtained all of the necessary permits. The permit process may require review by the Office of the Chief and the Vice Administrative Unit before approval by the Secondary Employment Unit.*

*When working for any establishment where alcoholic beverages are served, a department member will not directly supervise or regulate the sale or consumption of alcoholic beverages.*

**C 1533**

**SECONDARY EMPLOYMENT AS A CONSULTANT:**

*Revised 04/18/12*

*While off-duty, department members shall not work secondary employment as a consultant in any field related to their specific on-duty assignment.*

*EXCEPTION: When a member is acting as an instructor at an accredited school or university, or as a speaker at a law enforcement-related conference or seminar.*

*While off duty, department members shall not work secondary employment and receive compensation for services as a consultant in any field related to their specific on-duty assignment in criminal or non criminal matters in the County of Santa Clara. Department members are permitted to engage in such secondary employment outside Santa Clara County in non criminal matters that do not involve the City of San Jose.*

*Members who are compensated by a secondary employer as a consultant shall not consult while on City time.*

*All requests for exceptions to this policy must be evaluated through the member's Chain of Command and the commander of the Secondary Employment Unit to determine if the employment is consistent with the terms and conditions listed in section(s) C 1513/1531. The Chief of Police shall have final authority to determine whether or not to allow the requested exception.*

**C 1534**

**SECONDARY EMPLOYMENT AS AN EXPERT WITNESS:**

*Revised 04/18/12*

*While off duty, department members will not engage in any secondary employment services as an expert witness in criminal or non-criminal matters in the County of Santa Clara.*

*Department members are permitted to engage in such secondary employment outside the County of Santa Clara in non criminal matters that do not involve the City of San Jose. However, the Office of the Chief will be notified in writing prior to testimony being provided.*

*Members who are compensated by a secondary employer as expert witnesses shall not prepare for testimony or testify on City time.*

*All requests for exceptions to this policy must be evaluated through the member's Chain of Command and the commander of the Secondary Employment Unit to determine if the employment is consistent with the terms and conditions listed in DM Section C 1513/1531.*

*The Chief of Police shall have final authority to determine whether or not to allow the requested exception.*

**C 1535      SECONDARY EMPLOYMENT WHILE ON DISABILITY OR MODIFIED DUTY LEAVE:**

*Revised section number 04/18/12 (old number C1516)*

*All authorizations for secondary employment to a department member are immediately suspended upon the member being placed on disability leave or modified duty. The member may appeal the suspension to their commanding officer. The member's commanding officer will then review the duties of the secondary employment and recommend to the Chief of Police whether such secondary employment should be continued. When the Chief of Police, or designee, determines that the member's secondary employment should be continued, a notice of exception will be forwarded to the involved member and a copy attached to the original request for authorization filed with the Secondary Employment Unit.*

*Criteria for denying the request for exception include, but are not limited to the following elements:*

*The employee is on total disability and unable to perform modified duty for the Department.*

*Risk Management (on duty injuries) or Occupational Health Services (off-duty injuries) determines the outside work is medically detrimental to the total recovery of the disabled member.*

*The secondary employment requires substantially the same physical ability as would be required of an on duty member.*

*When a department member who was placed on disability leave or modified duty returns to full duty, all secondary employment authorizations are automatically reinstated.*

**C 1536      SECONDARY EMPLOYMENT WHILE ON ADMINISTRATIVE LEAVE:**

*Revised section number 04/18/12 (old number C1517)*

*All authorizations for secondary employment held by a department member are immediately suspended upon the member being placed on administrative leave. The member may appeal the suspension to their commanding officer. The member's commanding officer will then review the duties of the secondary employment and recommend to the Chief of Police whether such secondary employment should be continued. When the Chief of Police, or designee, determine that the member's secondary employment should be continued, a notice of exception will be forwarded to the involved member and a copy attached to the original request for authorization filed with the Secondary Employment Unit.*

*When a department member who was placed on administrative leave returns to full duty, all secondary employment authorizations are automatically reinstated.*

**C 1537 SECONDARY EMPLOYMENT WHILE ON SICK LEAVE:**

*Revised 04/18/12*

*Department members shall not work secondary employment while on paid or unpaid sick leave due to any non-work related illness or injury.*

*Department members who work a secondary employment assignment immediately prior to their regularly scheduled department shift and then use sick leave for their department shift must provide a written excuse to a command officer in their chain of command.*

**C 1538 SECONDARY EMPLOYMENT WHILE ON STANDBY DUTY:**

*Revised 04/18/12*

*Department members may not work a secondary employment assignment while they are performing standby duty and are receiving compensation from the City for their status. (Standby Duty shall be defined by the current MOA).*

**C 1539 SECONDARY EMPLOYMENT AND COURT:**

*Revised 04/18/12*

*Department members shall not miss or cancel a court date to work a secondary employment assignment. Department members shall not work a secondary employment assignment when he/she is the subject of a valid subpoena or court notice and there is a likelihood the member will be needed in court.*

**C 1540 SECONDARY EMPLOYMENT MAXIMUM AUTHORIZED HOURS ALLOWED PER WEEK:**

*Revised 04/18/12*

*Department members shall not work in excess of twenty-four (24) hours of secondary employment assignments in one calendar week (Sunday-Saturday). However, during a week where the member uses compensatory time, holiday time, or vacation time, the member may increase the amount of secondary employment hours by the amount of compensatory time, holiday time, or vacation time taken.*

*EXAMPLE: A Department member who uses 10 hours of vacation during his/her 40 hour work week may increase his/her total of secondary employment hours from 24 to 34.*

*In any case, the total of on-duty hours and secondary employment hours, excluding court and mandatory Department overtime, shall not exceed 64 hours in a calendar week (see General Order 2010-29 for mandatory overtime guidelines).*

*The 24 hours include any combination of secondary employment (uniformed or non-uniformed, security or non-security related). For purposes of determining the 24 hour maximum for Secondary Employment, Secondary employment assignments shall include special Departmental overtime assignments (i.e. TABS, "day worker car," "gang car," "prostitution detail car," etc). Any hours a member is paid to coordinate and/or schedule a secondary employment assignment shall be included in the 24 hour limit.*

*While the Department limits the weekly hours of secondary employment, it does not relieve a department member's supervisor of the responsibility to monitor the impact of secondary employment on the member's performance of his/her duties.*

**C 1541      SECONDARY EMPLOYMENT MAXIMUM AUTHORIZED HOURS IN TWENTY-FOUR (24) HOUR PERIOD:**

*Revised 04/18/12*

*To address the overall health and safety of officers and to ensure that the City receives efficient performance of the officer's duties in City employment, department members shall not work in excess of sixteen (16) hours in a twenty-four (24) period. Department members shall not work a combination of his/her regular shift plus a secondary employment assignment in excess of 16 hours in a 24 hour period. The 16 hour work day begins with the start of the first shift worked regardless if the first shift is a secondary employment assignment or the member's regular Department shift.*

*EXAMPLE: A department member may work a secondary employment assignment from 0800-1400 hours and in the same 24 hour period complete his/her regular shift from 1500-0100. At 0800 hours the following day, the member would be allowed to work another secondary employment assignment.*

*EXAMPLE: A department member may not work a secondary employment assignment from 0800-1700 hours and in the same 24 hour period complete his/her regular shift from 2100-0700 hours.*

*The 16 hour limit excludes court and mandatory Department overtime (See General Order 2010-29 for mandatory overtime guidelines).*

**C 1542      REGULAR DEPARTMENT SHIFT AND SECONDARY EMPLOYMENT ASSIGNMENT CONFLICTS:**

*Revised 04/18/12*

*Patrol briefings are an integral part of the Department's communication to officers of organizational and officer safety information and are expected to be attended prior to the start of an officer's field shift. As such officers shall not miss briefing or arrive late to their regular department shift to accommodate a secondary employment assignment. Nor shall they take beginning of shift time off in order to miss briefing and accommodate a secondary employment assignment. Officers who work a secondary employment assignment shall ensure their schedule allows for sufficient travel time to be on time and dressed in the appropriate uniform or attire for the start of their regularly scheduled department shift.*

*EXAMPLE: An officer assigned to second watch patrol may not work a secondary employment assignment that ends at 1500 hours on his/her regular work day.*

*Officers working an assignment other than patrol shall not adjust their shift or days off to accommodate a secondary employment assignment. No officer shall take time off in the middle of his/her shift to work a secondary employment assignment.*

**C 1543 REPORTING OF SECONDARY EMPLOYMENT HOURS:**

*Revised 04/18/12*

*Officers will report all hours of secondary employment worked (uniformed, non-uniformed and Department sponsored special overtime assignments) on the "SECONDARY EMPLOYMENT TRACKING FORM." Forms will be submitted biweekly with the officer's timesheet. Supervisors will review and sign the form. Unit or Area Commanders will be required to review and sign the form anytime the reported hours worked exceed 24 hours in one week.*

*Officers shall accurately document the actual hours worked on the secondary employment tracking form.*

**C 1544 USE OF CITY EQUIPMENT AT SECONDARY EMPLOYMENT ASSIGNMENTS:**

*Revised 04/18/12*

*Officers working a uniformed secondary employment assignment may utilize their personal Department issued equipment while working the assignment. Officers who require any additional equipment (other than department vehicles) during a uniformed secondary employment assignment shall get approval in writing for the use of the department issued equipment from the Chief of Police or designee prior to working the assignment.*

*Officers working plain clothes secondary employment assignments shall not utilize department issued equipment while working any assignment.*

*EXCEPTION: Officers may wear their department issued body armor during a plain clothes secondary employment assignment.*

*EXCEPTION: Officers working a plain clothes security related secondary employment assignment in the City of San Jose shall utilize a department issued hand pack to monitor department radio traffic to prevent a potential confrontation with on-duty personnel.*

*Any other exceptions to this policy must be approved by the Chief of Police in writing.*

**C 1545 DEPARTMENT VEHICLE AT SECONDARY EMPLOYMENT ASSIGNMENTS:**

*Revised 04/18/12*

*Department vehicles shall not be utilized for secondary employment assignments. Department vehicles shall not be driven to or from secondary employment assignments.*

*EXCEPTION: While working secondary employment assignments coordinated through the Secondary Employment Unit, marked Department vehicles may be used with the approval of the BFO Administrative Unit.*

*EXCEPTION: Marked Department vehicles may be used for Department sponsored special overtime assignments (i. e. TABS, "gang car," "special overtime cars", etc.).*

*EXCEPTION: With the unit commander's approval, officers assigned to the Secondary Employment Unit may use unit vehicles while working assignments related to their duties.*

*EXCEPTION: Officers who have completed their regularly scheduled Department shift and are driving a marked Department vehicle and are immediately scheduled to work a City-sponsored uniformed secondary employment assignment may drive the vehicle to the assignment with the pre-approval of the on-duty Watch Commander.*

*EXCEPTION: Officers who are allowed to drive their Department vehicle to and from home may drive the vehicle to a City-sponsored secondary employment assignment if the assignment is immediately before or after their regularly scheduled Department shift. The officer must have the pre-approval of a command officer in their chain of command.*

*Any other exceptions to this policy must be approved by the Chief of Police in writing.*

**C 1546 USE OF DEPARTMENT E-MAIL, MDT, CITY ISSUED CELL PHONES AND SECONDARY EMPLOYMENT:**

*Revised 04/18/12*

*City e-mail, MDT messages, and city issued cell phones are generally for official city purposes and shall not be used to coordinate or staff secondary employment assignments, unless the coordination is being done through the Secondary Employment Unit.*

**C 1547 COMMUNICATIONS NOTIFICATION OF SECONDARY EMPLOYMENT LOCATION:**

*Revised 04/18/12*

*Officers working a uniformed secondary employment assignment, or a non uniformed secondary employment security assignment in the City of San Jose, shall contact Communications and "log on" to CAD. Officers will provide Communications with their badge number, location, nature of assignment (e.g., traffic control, condo complex security, school security, etc.), a cell phone number where they can be reached, and an expected O.D. time. At the completion of their assignment, officers must contact Communications and "log-off."*

*Call signs have been provided for all the high school and middle schools in the City of San Jose, regardless of the School District. Any officer working as school safety officers at a high school or middle school will log on with the pre-designated call signs for that school. At all off-duty uniformed pay jobs, officers will sign on with S100-S500 series for pay jobs anywhere in the city. Due to the requirement that Traffic Enforcement Unit motorcycle officers log onto CAD when operating a City owned motorcycle, officers with that assignment may use their radio call sign when working a secondary employment job.*

*Officers working a uniformed or plain clothes security related secondary employment assignment in the City of San Jose shall use a Department issued hand pack to monitor the district radio channel covering the area of their*

*assignment. (If a uniformed secondary employment assignment is utilizing a back up radio channel for an event, the officer does not need to monitor the district channel.)*

**C 1548      SECONDARY EMPLOYMENT LOGS:**

*Revised 04/18/12*

*All uniformed secondary employment assignments shall maintain a log documenting all officers working the assignment. Individual officers working secondary employment assignments shall sign in and out each date they work an assignment at the site. The log will include the date and times the officer logged in and out, the call sign the officer used during the assignment, and a brief description of any enforcement activity along with a case number. The log shall be maintained by the coordinator responsible for the secondary employment assignment. The log will be made available upon request to the commander of the Secondary Employment Unit or his/her designee.*

*EXCEPTION: Secondary employment assignments coordinated through the Secondary Employment Unit are exempt from this provision.*

**C 1549      SECONDARY EMPLOYERS INVOLVED IN LABOR DISPUTES:**

*Revised 04/18/12*

*During periods of conflict between secondary employer's management and labor, authorization allowing officers, including reserve officers, to work for either party in a law enforcement or security related capacity in the dispute is suspended by the Chief of Police.*

*Penal Code Section 70 (d) (2) specifically states " a peace officer while off-duty from his or her principal employment and outside his or her regular employment as a peace officer of a state or local agency shall not exercise the powers of a police officer if employed by a private employer as a security guard during a strike, lockout, picketing, or other physical demonstration of a labor dispute at the site of the strike, lockout, picketing, or other physical demonstration of a labor dispute."*

*If an officer's secondary employer becomes involved in a labor dispute, the officer will immediately report this fact to the Secondary Employment Unit commander.*

*During labor disputes, requests for police service will be received through the normal official channels. It is the responsibility of the officer to notify the secondary employer of this procedure.*

**C 1550      NOTIFICATION OF DEPARTMENT CONCERNING PROBLEMS AT LOCATION OF SECONDARY EMPLOYMENT:**

*Revised 04/18/12*

*An officer working in a secondary employment capacity will immediately advise an on duty supervisor of any and all exceptional incidents or problems encountered during the course of the officer's secondary employment that may require an on duty police response, e.g., labor dispute, civic protests or demonstrations, need for additional resources, major crimes, etc. The on duty*

*supervisor will evaluate the situation and determine if there is a need to commit on duty officers to the situation.*

**C 1551 TEMPORARY SECONDARY EMPLOYMENT ASSIGNMENTS:**

*Revised 04/18/12*

*Department members who fill in on an irregular basis at ongoing, established secondary employment assignments shall have a work permit on file with the Secondary Employment Unit. Officers will also be enrolled in the Law Enforcement Liability Insurance Program.*

**C 1552 SPECIAL OVERTIME ASSIGNMENTS:**

*Revised 04/18/12*

*Special overtime assignments include TAB cars, "DUI cars," "gang cars", etc., and "VIS" code assignments. Officers will not take time off to work these assignments. Officers do not need to have work permits on file or participate in the Department's liability insurance program to work these assignments since the officers are not working for a secondary employer, but are still working for the primary employer, the City of San Jose. Officers are still required to complete the Secondary Employment Unit tracking sheet. Reserve officers are ineligible to work special overtime assignments.*

**C 1553 SECONDARY EMPLOYMENT SUBORDINATE TO LESSER RANK:**

*Revised section number 04/18/12 (old number C1531)*

*While working secondary employment assignments, supervisors and command officers (or civilian equivalent) are prohibited from working as a subordinate to any member of a lesser rank, including a police reserve officer. Police reserve officers may not supervise, coordinate, staff or schedule secondary employment assignments. Supervisors and command officers (or civilian equivalent) are also prohibited from working secondary employment assignments that are scheduled, staffed or coordinated by a member of a lesser rank, including a police reserve officer.*

*EXCEPTION: Supervisors and command officers may work secondary employment assignments scheduled by officers of a lesser rank who are assigned to the Secondary Employment Unit.*

*Additional exceptions must be approved by the Chief of Police in writing.*

**C 1554 SUPERVISORS RESPONSIBILITY WHILE EMPLOYED OFF-DUTY:**

*Revised section number 04/18/12 (old number C1532)*

*If a supervisor is working in a law enforcement or security related secondary employment assignment, they retain their responsibility for taking appropriate action as a supervisor should the need arise.*

**C 1555 SUPERVISION OF OFFICERS EMPLOYED OFF DUTY:**

*Revised 04/18/12*

*The staffing model for all secondary employment assignments shall be one supervisor for every 10 officers working an event. For every 30 officers working simultaneously at an event, one lieutenant shall be required in addition to the three supervisors.*

*EXAMPLE: A parade requiring 60 officers for security and traffic control would require the assignment of 6 sergeants and 2 lieutenants.*

*Any sergeant or lieutenant working in the role of a supervisor shall be compensated at the prescribed supervisor's rate of pay.*

*The Secondary Employment Unit commander shall have the authority to alter the staffing model depending on the nature of the event. The Chief of Police shall have final authority over all staffing decisions at secondary employment assignments.*

**C 1556      *OUTSIDE WORK INVOLVING OFF DUTY/ON DUTY PERSONNEL:***

*Revised section number 04/18/12 (old number C1534)*

*In situations where both on duty and off duty officers are involved, the on duty officers shall have the final decision to what action will take place. (In the event the off duty officer is of greater rank, the on duty officer will notify an on duty supervisor of equal rank or higher to resolve the issue.)*

**C 1557      *CRIME REPORT RESPONSIBILITY WHILE EMPLOYED OFF-DUTY:***

*Revised 04/18/12*

*Officers working law enforcement related secondary employment will initiate, complete and submit a crime report whenever an incident is directly related to the scope of their assignment. Communications will assign an on-duty officer to assist when it becomes necessary to process evidence, book a prisoner, conduct follow-up, or engage in any other police activity that would require the off-duty officer to leave the secondary employment site.*

*If staffing does not permit on-duty officers from assisting with the follow-up, the district supervisor shall authorize the off-duty officer to work Department overtime at the conclusion of his/her secondary employment assignment. See DM Section C1559 (Secondary Employment Overtime).*

*When an on-duty officer is called to an event that was originally handled by an officer working in a secondary employment capacity in which a crime report was not completed and a report needs to be completed, or when an officer is asked to complete a crime report, the following steps shall occur:*

*The district supervisor or an available supervisor, not affiliated with the secondary employment assignment shall be notified of the event;*

*The original investigating off-duty officer, when possible, will be contacted by the field supervisor and directed to complete the report or provide information necessary for the new investigating officer to do so;*

*At the direction of the field supervisor, the on-duty officer who is assigned to complete the report shall contact and interview all of the involved parties before completing and submitting the report.*

**C 1558 ARRESTS RELATED TO SECONDARY EMPLOYMENT:**

*Revised section number 04/18/12 (old number C1536)*

*Officers making arrests during a law enforcement related assignment for a secondary employer will complete and submit all necessary arrest documents and investigative reports to the Police Department at the completion of their assignment.*

**C 1559 SECONDARY EMPLOYMENT OVERTIME:**

*Revised 04/18/12*

*Services provided at a secondary employment assignment should be paid for by the secondary employer. However, under some circumstances additional tasks required by the Department may necessitate that an officer work past the hours of the secondary employment assignment.*

*If an officer must complete a task(s) required by the Department after his/her secondary employment assignment has ended, the following procedure will be followed:*

*The off-duty officer will contact Communications and request an on-duty officer to assist when it becomes necessary to process evidence, book a prisoner, or conduct follow-up, which would require the off-duty officer to work Department overtime. If staffing does not permit on-duty officers from assisting with the follow-up, the district supervisor shall authorize Department overtime for the off-duty officer.*

*If reports need to be completed, the off-duty officer shall complete all of the report writing tasks. If the secondary employment assignment is on the same day, and prior to, the officer's regularly scheduled shift, the officer will complete all reports during his/her regularly scheduled shift. If at the end of the officer's regular shift the reports are still not complete, the officer is authorized Department overtime to complete them. If the secondary employment assignment is on a department officer's day off, the officer is authorized Department overtime to complete the reports.*

*In any case, overtime charged to the Department resulting from a secondary employment assignment, shall cover only the actual time spent on follow up or report writing.*

*Officers will not be compensated for Department overtime for plain-clothes secondary employment assignments.*

*Any overtime stemming from a secondary employment assignment that the officer documents on his/her City timecard requires an explanation as to why the task was not completed during the secondary employment assignment.*

**ALL SWORN PERSONNEL**  
**DUTY MANUAL REVISION C 1500 Secondary Employment**  
April 18, 2012  
Page 23 of 23

**ORDER**

Effective immediately, all sworn personnel will adhere to the above procedures in Duty Manual section C 1500 Secondary Employment.

A handwritten signature in black ink, appearing to read 'C Moore', with a long horizontal flourish extending to the right.

CHRISTOPHER M. MOORE  
Chief of Police

CMM: ADH

## POLICE DEPARTMENT SECONDARY EMPLOYMENT: URGENT REFORM AND A CULTURAL CHANGE NEEDED TO GAIN CONTROL OF OFF-DUTY POLICE WORK (Issued 3/07/12)

The objective of the audit was to assess the cost and effectiveness of the San José Police Department's program allowing sworn personnel to work second jobs in uniform in addition to their City work. The 30 recommendations, 1 was implemented during this period, 22 are partly implemented, and 7 are not implemented.

<p>#1: The Police Department should develop and immediately implement a written procedure for periodic review of off-duty employment timecards including comparisons of: (a) City timecards to off-duty timecards, and (b) timecards for multiple off-duty jobs to each other to test for fraud, and (c) hours taken for administrative/disability/sick leave to hours worked off-duty. The Department should also hold supervisors accountable for paying attention to on-duty and secondary employment time keeping.</p>	Police	Partly Implemented	<p><b>Auditor's update as of June 2012:</b> The Police Department updated procedures for the Secondary Employment Unit (SEU) to include audits of timecards to test for fraud/overlapping hours as well as secondary employment worked simultaneously with disability or other leaves. However, SEU management advises that the SEU does not currently have the staff to conduct the audits. The Department advises that there are sections of the Duty Manual that hold supervisors accountable. Target date: TBD.</p>
<p>#2: The Police Department should develop a system to compile real-time data regarding the number of hours worked and pay earned from off-duty work.</p>	Police	Partly Implemented	<p><b>Auditor's update as of June 2012:</b> Department management advises that they are exploring the potential for real-time tracking of hours worked. The Department has recently submitted a Request for Proposal (RFP 10-12-10) to implement a shift bidding and workplace scheduling software/technology-based solution. The system would potentially allow real time data regarding the number of regular and secondary employment hours worked by an individual employee. Secondary Employment Unit staff continues to work with the Department's Bureau of Technical Services (BTS) and Bureau of Administration (BOA) to identify key components specific to secondary employment. Target date: TBD.</p>
<p>#3: The Police Department should: (a) keep lists of work permits and employers updated and be able to provide summary data, (b) include tests in periodic reviews to ensure the completeness of pay job hours that are reported to the City, (c) specify in the Duty Manual the disciplinary consequences for both employees and supervisors for failure to consistently report off-duty hours worked, (d) develop a way to track enforcement actions taken at pay jobs; one possibility is a special code or call sign in CAD to designate calls from those working secondary employment.</p>	Police	Partly Implemented	<p><b>Auditor's update as of June 2012:</b> (a) With the assistance of temporary employees, the SEU has developed detailed spreadsheets of updated work permit and employer lists. However, SEU management advises that the unit does not have sufficient staffing to keep the lists current. (b) The SEU Procedures Manual has been revised to require verification of hours worked based on secondary employers' records. However, SEU management advises that the unit does not have sufficient staffing to conduct the verifications. (c) SEU management advises that several sections of the Duty Manual document policy and discipline as it relates to secondary employment. Specific disciplinary consequences cannot be listed as discipline can vary based on an employees past history. (d) SEU management advises that this has been accomplished through the use of specific call signs dedicated to secondary employment officers. Any enforcement action is captured under this call sign specific to the date, time, and officer. Duty Manual Section C1548 (Secondary Employment Logs) also requires officers to log their time and hours worked, call sign, and any enforcement action taken. Target date: TBD.</p>

Audit Report and Recommendation	Department	Current Status	Comments
<p>#4: The SEU should report to the Police Chief at least annually on the following data about the secondary employment program: (a) the number of hours worked, (b) the amount of pay earned by employee from each off-duty employer, (c) the number of employees who have off-duty work permits, (d) the total number of permits, and (e) the number of employers participating in the program. The report should also note major changes or challenges with program during the prior year.</p>	Police	Partly Implemented	<p><b>Auditor's update as of June 2012:</b> Regarding (a) and (b), the Department has recently submitted an RFP for a shift bidding system that may potentially allow for tracking of hours worked and pay earned (see description in Recommendation #2). Regarding (c),(d), and (e) while the SEU has updated the list of employees who have work permits, SEU management advises that the unit lacks sufficient staffing to keep the lists updated going forward. Target date: TBD.</p>
<p>#5: To promote transparency and accountability, the Police Department should know and post annually, on the City's web site, total compensation earned by Police Department employees working secondary employment in SJPd uniform. The Department should know and post information for each employee by name, each employer where that employee worked, and the amount earned from each employer during the year as reported by the employee to the Police Department.</p>	Police	Not Implemented	<p><b>Auditor's update as of June 2012:</b> Department management advises that if the Chief of Police were to comply with this recommendation, an increase in SEU staff would be needed and that the current decentralized structure of secondary employment would make it a labor-intensive task. Department management anticipates that the new staffing and scheduling software-based solution (see Recommendation #2) would assist with the implementation of this recommendation. Target date: TBD.</p>
<p>#6: The SEU should provide information in the secondary employer application or contract about the process to file complaints (from secondary employers or others) through the Internal Affairs Unit or the Independent Police Auditor's Office about officers working secondary employment.</p>	Police	Partly Implemented	<p><b>Auditor's update as of June 2012:</b> Department management advises that the SEU has begun work on a new public webpage that will be accessible through the City's home page. The SEU page will include Frequently Asked Questions (FAQs) (including the procedure for filing complaints). The page will also include a link to Internal Affairs and the Independent Police Auditor's Office. Target date: TBD.</p>
<p>#7: The Police Department should prohibit work at any off-duty job during the hours of an employee's scheduled shift. Such a policy should also prohibit the use of flexible time to accommodate off-duty jobs. The Department should also implement limitations on working pay jobs immediately before or after a shift, similar to the limitations on specialized overtime assignments. The Police Chief should periodically remind employees, in writing, that their City job is their primary employment and should be treated as such.</p>	Police	Partly Implemented	<p><b>Auditor's update as of June 2012:</b> The Duty Manual was revised to prohibit employees from taking time off at the beginning of their shift or from adjusting their schedule to accommodate a secondary employment assignment. Limitations have not been placed, however, on being able to work a pay job immediately before or after an on-duty shift. Department management advises that management and supervisory personnel continually remind employees (through briefings, unit meetings, and the SEU) that their City job is their primary function. Target date: TBD.</p>
<p>#8: The Police Department should enforce rules from the Duty Manual that have been ignored in the past including: (a) reporting of secondary employment hours, (b) CAD log-on from off-duty jobs, (c) approvals for use of City vehicles and equipment (d) prohibitions against working secondary employment while on disability, sick, or administrative leave, and (e) pay rates. The Department should inform employees that failure to comply could result in the suspension or revocation of an employee's secondary employment permit.</p>	Police	Partly Implemented	<p><b>Auditor's update as of June 2012:</b> Parts of the Duty Manual have been revised to better address some of these provisions, but Department management advises that additional SEU staffing will be needed to sufficiently monitor and enforce these rules. Target date: TBD.</p>

Audit Report and Recommendation	Department	Current Status	Comments
<p>#9: The Police Department should enforce its procedure for periodic inspections of secondary employers. As specified in the procedure, such inspections should include reviews of: (a) current business license and proper regulatory permits, (b) other required licenses or professional certificates, (c) employer logs of officer work hours, (d) consistency of job with description on work permit and employer approval form, (e) whether officers at site have current/authorized work permits on file. Inspections of a sample of employers should occur at least quarterly, be documented, and notes maintained on the resolution of problems. The Police Department should inform employers and employees that such reviews will occur.</p>	Police	Partly Implemented	<p><b>Auditor's update as of June 2012:</b> SEU management advises that additional SEU staffing will be needed to conduct inspections of secondary employers. Target date: TBD.</p>
<p>#10: The Police Department should clarify (in writing) the City's limited liability with regard to workers' compensation in the context of secondary employment.</p>	Police	Not Implemented	<p><b>Auditor's update as of June 2012:</b> Police Department Management advises that the Department's Research and Development Unit and SEU should work with Office of Employee Relations, the City Attorney's Office and City Risk Management to determine the feasibility of this recommendation. Target date: TBD.</p>
<p>#11: The Police Department should immediately eliminate the practices of allowing Department employees to solicit off-duty work and allowing them to be paid in cash. The Department should develop and implement a written procedure that includes a business card SJPd employees can provide to businesses or individuals who inquire about hiring off-duty police. The card could include contact information for SEU and inform businesses that calling SEU is the only way to arrange the hiring of SJPd employees. A provision should also be added to secondary-employer agreements to prohibit cash payments to SJPd employees for off-duty work and to require employers to issue appropriate tax documents to pay job employees.</p>	Police	Partly Implemented	<p><b>Auditor's update as of June 2012:</b> The Duty Manual has been revised to prohibit Department members from soliciting secondary employment and from being paid in cash (with exceptions allowed if approved by SEU commander or the Chief of Police). In addition, Department management advises that the Secondary Employer application has been removed from the intranet and all applications must now be processed through SEU (in the past they could be handled by individual officers). A tax document provision has not yet been added to the Secondary Employer application. Target date: TBD.</p>
<p>#12: Assuming that the City continues to offer uniformed off-duty employment to private employers, then the Department should contact local business organizations as well as existing approved employers and inform them of (a) revisions to the secondary employment program, and (b) new procedures that prohibit officers from soliciting jobs or accepting cash payments or gratuities, and (c) how to contact the Department if they are interested in secondary employment, (d) pay rates for secondary employment and prohibitions on gratuities or other forms of compensation, and (e) how to lodge a complaint or suggestion, and (f) the requirement that SJPd employees may only enforce the law and may not enforce employer rules. The Department should also provide guidance, in writing, about how employees should address potential situations in which there is a conflict between what a private employer requests of them and their role as a City employee.</p>	Police	Not Implemented	<p><b>Auditor's update as of June 2012:</b> The Police Department is considering options for the future structure of the secondary employment program. Target date: TBD.</p>

Audit Report and Recommendation	Department	Current Status	Comments
#13: The Police Department should prohibit employees from having a financial interest or management role in businesses that are secondary employers.	Police	Partly Implemented	<b>Auditor's update as of June 2012:</b> The Duty Manual was revised to prohibit officers from working a "uniformed secondary employment assignment for a private employer in which the officer has a monetary interest, family interest, is part owner, or is employed in any capacity other than the secondary employment role." The Auditor's Office notes that the intent of the recommendation was for it to apply to all sworn Department members. While this may be the intent of the revised Duty Manual language, a strict interpretation of it means it applies only to officers. Target date: TBD.
#14: The Police Department should clarify the Duty Manual to ensure that careful consideration is given to the potential for the appearance of a conflict with an on-duty assignment. The Department should further specify in the Duty Manual the criteria upon which the Police Chief will determine whether a pay job conflicts with an on-duty assignment.	Police	Not Implemented	<b>Auditor's update as of June 2012:</b> Neither the Duty Manual nor SEU procedures specify the criteria upon which the Police Chief determines whether a pay job conflicts with an on-duty assignment. Target date: TBD.
#15: The Department should: (a) reinstate its prohibition against employees working as private investigators and (b) write and implement a procedure for periodic review for appropriateness of access to criminal databases by sworn employees working secondary employment.	Police	Not Implemented	<b>Auditor's update as of June 2012:</b> Department management has stated that employees should be allowed to continue working as private investigators and that the prohibition should not be reinstated. While the Department does have written policies in place regarding the use of criminal information and other City/Departmental databases, there is not a specific procedure for periodic review of the accessing of such data by employees working secondary employment. Target date: TBD.
#16: The Police Department should develop and implement written guidelines that include criteria for how pay jobs are assigned by SEU and by coordinators. The Department should also prohibit employees who work in the Secondary Employment Unit from working pay jobs, even if they were working such jobs before being assigned to the unit. Reasonable exceptions should be included related to oversight of special events.	Police	Partly Implemented	<b>Auditor's update as of June 2012:</b> The Duty Manual has been revised to prohibit employees who work in the SEU from working pay jobs. SEU management advises that in order to assign jobs based on criteria, software would be required. Management advises that the RFP described in Recommendation #2 could potentially assist with assigning jobs. Target date: TBD.
#17: The Police Department should revise its written guidelines for the exercise of discretionary judgment in determining the number of police employees the Department requires event organizers to hire for special events. The guidelines should specify the criteria upon which the decisions will be made and should also address how the Department determines an appropriate mix of private security and police.	Police	Partly Implemented	<b>Auditor's update as of June 2012:</b> SEU management advises that the SEU is currently working with the Office of Cultural Affairs to find an appropriate mix of security, non-sworn personnel, and police. SEU advises that it is also exploring alternative methods to police staffing and is establishing criteria for special events and an appropriate staffing model. Target date: TBD.

Audit Report and Recommendation	Department	Current Status	Comments
<p>#18: The City Administration (including the Office of Cultural Affairs, Department of Transportation, Public Works Department, and the Police Department) should ensure that special event organizers are informed about the option to hire Parking Traffic Control Officers (PTCOs) for traffic control at special events and that contractors are aware that civilian flaggers are allowed for construction work.</p>	<p>Police, Economic Development, DOT and Public Works</p>	<p>Partly Implemented</p>	<p><b>Auditor's update as of June 2012:</b> SEU management advises that the SEU, Office of Cultural Affairs and the Department of Transportation already inform event organizers about the option of hiring PTCO's. This is done at pre-event meetings. SEU management advises that it is currently working with the Department of Public Works to change the criteria in which officers are requested and mandated at construction sites. Target date: TBD.</p>
<p>#19: The Police Department should document in writing the performance expectations of SJPD employees working special events and should ensure that information on the staffing history, security plans, and other information related to recurring events are passed on to subsequent SEU employees to ease transitions and provide consistency in decisions regarding special events.</p>	<p>Police</p>	<p>Implemented</p>	<p><b>Auditor's update as of June 2012:</b> SEU management advises that the SEU Procedures Manual addresses specific employee performance problems. SEU management also advises that the SEU has maintained event files for the past two (2) years on all special events it staffs. These files contain staffing history, security plans, traffic plans, and any documented issues. These files are routinely screened when staffing similar or subsequent events. Past event histories play a large part in the Department's attempt to be fair and reasonable when staffing special events.</p>
<p>#20: The Police Department should fully implement the Independent Police Auditor's recommendation for ongoing ethics training and should try to do so as soon as possible.</p>	<p>Police</p>	<p>Partly Implemented</p>	<p><b>Auditor's update as of June 2012:</b> Department management advises that the ethics training has begun and is expected to be completed within the next year. Target date: 6-13.</p>
<p>#21: If the Police Department retains the system of decentralized coordination, the SEU should be solely responsible for appointing coordinators and providing them with the lists of employees available to work pay jobs. The SEU should also maintain an up-to-date list of coordinators and the jobs they oversee. The Department should also establish and implement clear written guidelines regarding: (a) roles and responsibilities of coordinators and how they fit within the chain of command, (b) a prohibition against any form of compensation other than pay, (c) a fixed hourly rate for coordinators as well as not-to-exceed limits on coordinators pay, (d) clarify that coordinators can only be paid for actual hours of coordination rather than an agreed upon estimate or "plug", and (e) expressly prohibit coordination on City time.</p>	<p>Police</p>	<p>Partly Implemented</p>	<p><b>Auditor's update as of June 2012:</b> SEU management advises that the SEU has an updated list of all coordinators. Additional work, though, is pending decisions regarding the future structure of the secondary employment program. Target date: TBD.</p>
<p>#22: The Police Department should: (a) calculate the cost of bringing all coordination into SEU and the related impact on employers' fees (b) assess the impact on the hourly rate charged to employers, as well employer fees, if coordination were brought into SEU and employees were paid at an overtime rate. Given that information, the Department should seriously consider three options moving forward: (1) phasing into SEU the coordination of additional pay jobs, (2) bringing all coordination into SEU, (3) bringing all coordination into SEU and also paying employees on overtime through the City.</p>	<p>Police</p>	<p>Partly Implemented</p>	<p><b>Auditor's update as of June 2012:</b> SEU management advises that some cost-benefit analysis has been conducted and that the Department is exploring the options for the future structure of the secondary employment program. Target date: TBD.</p>

Audit Report and Recommendation	Department	Current Status	Comments
#23: The Police Department should: (a) immediately develop and enforce a reasonable daily hour limit and should consider a rest period prior to a regular shift; (one possibility is to reinstate the 14-hour daily limit previously in place), and (b) apply the 24-hour weekly limit for off-duty jobs even in weeks when employees have taken time off, and (c) develop a way to ensure sufficient days off per month.	Police	Partly Implemented	<b>Auditor's update as of June 2012:</b> The Duty Manual has been revised to limit to 16 the number of hours worked in a 24-hour period. Target date: TBD.
#24: The Police Department should train employees on the topic of police fatigue and the risks associated with it.	Police	Not Implemented	<b>Auditor's update as of June 2012:</b> SEU management advises that there is not currently any department curriculum that addresses police fatigue and the risks associated with it. Management further advises that it is not a POST-mandated topic and that any training in this topic would need to be researched. Target date: TBD.
#25: Because engaging in secondary employment may prolong the recovery of a member who has been injured, the Police Department should (a) ensure that the existing Duty Manual provision prohibiting secondary employment while on disability leave is enforced and (b) develop a process for identifying employees who are working secondary employment hours either concurrently or in the same time frame as taking disability leave hours.	Police	Partly Implemented	<b>Auditor's update as of June 2012:</b> The SEU Procedures Manual includes a provision for auditing employee timecards to check whether an employee was on disability leave while working secondary employment. However, SEU management has advised that it lacks sufficient staff to conduct such audits. Target date: TBD.
#26: The SEU should be housed in the Police Chief's office with the appropriate mix of civilian and sworn employees, with an emphasis on civilians to perform administrative duties and an emphasis on stable staffing and sufficient staffing to provide oversight. Sworn employees should be of sufficient rank to oversee all lower ranks that work secondary employment.	Police	Partly Implemented	<b>Auditor's update as of June 2012:</b> The Secondary Employment Unit has been moved to the Office of the Chief. The Department advises that it requested but did not receive additional civilian staffing. Target date: TBD.
#27: The Police Chief should set clear goals and a timetable for restructuring the secondary employment program and should propose a plan as soon as possible to the City Council for secondary employment going forward.	Police	Partly Implemented	<b>Auditor's update as of June 2012:</b> SEU management advises that the Department is currently exploring the possibilities for the future structure of the secondary employment program. Target date: 3-13.
#28: The Police Department should: (a) calculate the comprehensive cost of the secondary employment program (personnel, administrative costs, etc.), (b) compare those costs to the revenue generated by related fees, and (c) determine the fees that would be required to make the program 100% cost recovered and present this data to the City Council.	Police	Partly Implemented	<b>Auditor's update as of June 2012:</b> SEU management advises that some cost-benefit analysis has been conducted and that the Department is exploring the options for the future structure of the secondary employment program. Target date: TBD.  <b>POTENTIAL BUDGET IMPACT:</b> The personnel costs of operating the SEU unit were estimated at \$747,000 in the audit. Recovery of these costs through fees would reduce the subsidy by the General Fund.

Audit Report and Recommendation	Department	Current Status	Comments
<p>#29: The Police Department should fully recover the cost of secondary employment liability policy either through increased employee contributions or by a fee charged to secondary employers.</p>	Police	Not Implemented	<p><b>Auditor's update as of June 2012:</b> SEU management advises that the Department is currently exploring the possibilities for the future structure of the secondary employment program. Target date: TBD.</p> <p><b>POTENTIAL BUDGET IMPACT:</b> The General Fund subsidy of the secondary employment liability policy was \$59,000 at the time of the audit. If the program remains in its current format, requiring participating employees to pay the full cost of the insurance would eliminate the subsidy by the General Fund.</p>
<p>#30: Assuming that the City continues to offer uniformed off-duty employment to private employers, the City should assess the public and private benefits of the current provision of uniformed security services to a broad range of private and public entities. The Department should analyze the costs and benefits of continuing to provide this service on such a broad scale as well as the potential effects of limiting the program to certain types of jobs. The Department should propose a plan for the future of the program to the City Council that includes the results of this analysis.</p>	Police	Partly Implemented	<p><b>Auditor's update as of June 2012:</b> SEU management advises that the Department is currently exploring the possibilities for the future structure of the secondary employment program. Target date: TBD.</p>