
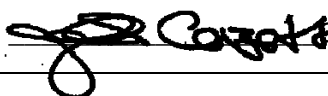
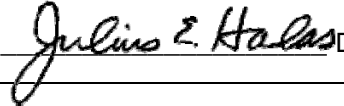


**Department of Financial Services  
Bureau of Fire and Arson Investigations  
STANDARD OPERATING PROCEDURE**

	Title:		Policy #
	<b>Secondary Employment</b>		2.2.2
	Amends:	Rescinds:	Effective Date:
2.309 09/06/2005	N/A	08/12/2009	
Review Date:	Review Date:	Review Date:	

Approved:  Chief John Corbett  Director Julius Halas

**I. Purpose**

The purpose of this procedure is to provide guidelines for secondary employment of sworn members of the Bureau of Fire and Arson Investigations.

**II. Policy**

It is the policy of the Bureau of Fire and Arson Investigations to allow its sworn members to engage in secondary employment that does not conflict with their primary job assignments or obligations to the Bureau.

**III. Authority**

- Chapter 112, Florida Statutes
- Chapter 493, Florida Statutes
- Section 216.262(1)(d), Florida Statutes
- Section 284.311, Florida Statutes
- Current Law Enforcement Bargaining Unit Agreement
- Administrative Policies and Procedures, 5-4, Dual Employment – Dual Compensation
- Chapter 60L-32 & 36, Florida Administrative Code
- Chapter 69H-2-010, Florida Administrative Code

**IV. Definitions**

- A. Off-Duty Employment - Any secondary employment undertaken while in an off-duty status that does not entail the use or implied use of police authority. Work of this type provides no real or potential law enforcement service and vested police powers are not a condition of employment.
- B. Off-Duty Police Employment - Secondary employment undertaken while off-duty that entails actual or potential use of police authority and requires vested police powers as a condition of employment.
- C. Police Authority - The exercise of duties and responsibilities delegated to sworn members pursuant to the provisions of Chapters 633 and 943, Florida Statutes.

- D. Secondary Employment Outside State Government - Services rendered to any employer or on behalf of oneself (if self-employed), other than the State of Florida and for which the sworn member receives compensation.
- E. Work Week - For the purposes of off-duty employment and this procedure, work week shall be defined as 00:01 hours on Friday through 24:00 hours on Thursday.

## V. Procedures

- A. This SOP is specifically intended for sworn members of the Bureau. Non-sworn members seeking authorization for secondary employment shall utilize 5-4 Dual Employment/Dual Compensation, DFS Administrative Policies and Procedures.
- B. No member may be employed by another state agency, fill more than a total of one full-time equivalent established position, receive compensation simultaneously from any appropriation other than appropriations for salaries, or be employed by any employer other than the State of Florida unless prior approval is obtained pursuant to Chapter 60L-32, F.A.C. and 5-4, Dual Employment/Dual Compensation Department of Financial Services Administrative Policies and Procedures.(CFA 9.01M)
- C. A sworn member is subject to being called to duty at any time. Therefore, he or she shall not undertake any off-duty employment that shall in any way interfere with his or her ability to adhere to this requirement. (CFA 9.02M "B")
- D. A sworn member is prohibited from leaving his or her assigned workstation early for the purpose of off-duty employment without supervisory approval.
- E. The maximum allowance for off-duty employment shall be 32 hours per workweek, or a total of 72 hours of off-duty plus on-duty hours in any combination. This limitation does not apply to a sworn member who is on annual leave, compensatory leave or if there is a holiday within the week in question. Work hours for all off-duty employment must be scheduled in a manner that does not conflict or interfere with the sworn member's performance of duty.
- F. A sworn member may work no more than eight off-duty hours during any regular workday or more than 16 combined hours per 24-hour period. The sworn member shall provide eight hours for rest between all off-duty employment and regularly scheduled on-duty assignments. Any exception to this requirement shall be approved through the chain-of-command up to and including the Bureau Chief in advance of the scheduled work.
- G. Sworn members are prohibited from adjusting work schedules to accommodate off-duty employment opportunities, except when approved by their immediate supervisor. Any adjustment will be properly documented in People First and approved by the sworn member's supervisor.
- H. During the course of the employment, the Department may make reasonable inquires of the sworn member to ensure that the continued outside employment does not constitute a conflict of interest, cause the sworn member to be fatigued or suffer diminished performance while on duty or interfere with the sworn member's primary duties in the Bureau. (CFA 9.02 M "B")

- I. Sworn members shall not, while on-duty, engage in any activity to supplement any off-duty employment related detail. This includes scheduling, arranging employment, arranging for replacements, delivering paychecks or any other off-duty related matters.
- J. All non-police employment shall conform to Chapter 112, Florida Statutes. Primary state employment must take precedence over all off-duty employment that would interfere with the ability of the sworn member to perform his or her assigned duties, cause the sworn member to become involved in a labor controversy or otherwise involve a conflict of interest. The use of state equipment will be authorized only for off-duty police employment. (CFA 9.02M "B")
- K. Off-duty police employment is not an inherent right, but a privilege recognized in Article 16 of the Agreement between the State of Florida and the Florida Police Benevolent Association Bargaining Unit. Approval of off-duty police employment will not be unreasonably withheld as long as it does not constitute a conflict of interest; does not interfere with the sworn member's duties as a state law enforcement officer; otherwise complies with Department Policy and applicable Statutes and is limited to the sworn member's jurisdiction and scope of employment. Disputes arising between supervisory personnel and sworn members concerning interpretation of this procedure will be resolved in accordance with existing current statutes, rules and procedures for processing discipline, grievances, or complaints. (CFA 9.02M "B")
  - 1. Sworn members who engage in off-duty police employment shall maintain the same high standards of discipline that are demanded of on-duty sworn members, and they shall be held accountable for violations of the code of conduct or Chapter 60L-36, F.A.C. (CFA 9.02M "B")
  - 2. A sworn member will be permitted to wear his or her issued uniforms and use his or her assigned police equipment for approved off-duty police employment in accordance with the provisions of this procedure. The use of information technology resources such as the DFS network infrastructure and computer hardware and software is prohibited for use in the furtherance of secondary police employment. (CFA 9.02M "B")
  - 3. Sworn members engaged in off-duty police employment shall take law enforcement action regarding any offense or condition that is authorized in his or her regular scope of employment. The off-duty employer may make a general assignment of duties but has no command authority over law enforcement personnel. (CFA 9.02M "B")
  - 4. Whenever members engaged in off-duty police employment take law enforcement action, whether as an arresting officer or as a witness, such sworn members shall document their actions in the Bureau's reporting system by completing a miscellaneous case report detailing the parties involved and the circumstances of the event. Such reports are subject to the same time frames for completion that are in effect for regular on-duty reports. If the law enforcement action results in any injury, or the allegation of injury to either the sworn member or a subject, the

procedures set forth in Bureau of Fire and Arson Investigations, Standard Operating Procedure, Use of Force, shall be followed. (CFA 9.02M "B")

5. Violation of any of the provisions stated in this procedure may result in suspension or termination of authorization to engage in off-duty employment or off-duty police employment in lieu of, or in addition to, any other disciplinary action.
- L. Off-duty police employment for the rank of major and above shall be consistent with the status and dignity of the rank. Examples of off-duty police employment that would be acceptable are dignitary protection, self-employment, consultant services and other employment in a management capacity. Sworn members in the rank of major or above will be denied authorization to work details involving uniformed security, traffic control and other patrol functions not routinely performed in an on-duty status. (CFA 9.01M)
- M. Performing off-duty work in uniform or in a state vehicle will subject the sworn member to all of the conditions and requirements of the Bureau's internal management policies and procedures and other standards of work ethics and conduct. Equipment will not be pulled out of service for off-duty use. Each sworn member working an off-duty police detail may be permitted to use his or her assigned state vehicle, subject to the availability of vehicles. On-duty use and the readiness of state assigned vehicles for on-duty missions will take priority over off-duty police employment uses of these vehicles. The following conditions apply to the use of state issued equipment: (CFA 9.02M "B")
1. The sworn member must pay all parking, bridge or toll road fees.
  2. The Department of Financial Services (DFS) shall be reimbursed for the use of the vehicle at the current rate per Section 112.061, Florida Statutes. A check made payable to the Department of Financial Services and a Cash Transfer Form (DFS-C1-646) shall be received by the DFS Cashier by the 8<sup>th</sup> of each month.
  3. The use of a state vehicle is restricted to a maximum of 50 miles from a sworn member's residence or headquarters to the location of the off-duty work site. A state vehicle may be used for an off-duty police detail over 50 miles from the sworn member's residence or headquarters with prior approval from the Bureau Chief or designee. This approval shall be noted on the Outside Employment Form DFS-C2-604.
  4. Idling or continuous transit is prohibited in vehicles. (CFA 9.02M "B")
- N. Off-duty sworn members shall only engage in the gathering or dissemination of information from confidential law enforcement sources, such as FCIC, NCIC, NLETS, and local area law enforcement computer networks, in furtherance of a verifiable law enforcement purpose. (CFA 9.02M "B")
- O. Sworn members who have an agreement with a property owner or manager to pay a reduced amount of rent or no rent for merely residing and parking their vehicle at an apartment complex are receiving compensation and must have supervisory approval prior to entering into the agreement. Agreements that include regularly scheduled patrol service such as a security check or a walk-

through constitutes off-duty police employment. Each sworn member with such an agreement, either written or verbal, shall conform to the provisions stated in this procedure. (CFA 9.02M "A")

P. The following types of activities are prohibited as off-duty employment: (CFA 9.01M)

1. Any employment involving the delivery of labor or other services in direct or indirect support of agencies engaged in debt collection or repossession of property, towing companies, bail bonding companies, private investigation services, paralegal services and adult entertainment.
2. Any type of employment that would require a sworn member to testify in a court of law in opposition to another law enforcement agency or assist in case preparation for the defense or plaintiff in any criminal or civil action or proceeding against a government entity.
3. Any type of employment at establishments, businesses, or events that sell alcoholic beverages for on-site consumption as a regular and primary part of the business enterprise or event. Exceptions to this prohibition may be granted on an individual basis when the sale and consumption of alcoholic beverages is incidental to the primary function or purpose of the event, activity or enterprise such as sports facilities, restaurants, and civic centers.

Q. No off-duty employment will be authorized:

1. Prior to completion of the Field Training Officer Program;
2. For the duration of any extended term of probation;
3. If the sworn member's overall performance appraisal rating does not meet performance standards;
4. While on leave for personal illness for a duration of more than one consecutive workday. Management reserves the right to consider exceptions on a case-by-case basis. The use of sick leave in conjunction with a corresponding period of working off-duty police employment may be grounds for the withdrawal of approval to work off-duty police employment or disciplinary action;
5. When taking sick leave because of family illness. This exclusion is limited to normally scheduled duty hours;
6. When assigned "administrative", "alternate" or "light" duties because of physical or mental restrictions rendering them incapable of performing their regularly assigned duties;
7. Throughout the period of any disciplinary suspension; and
8. While assigned to alternative duties or leave imposed pursuant to any on-going investigation and until the investigation is resolved.

- R. When requesting private-sector off-duty police employment using a state vehicle, sworn members must provide the following:
1. Proof of at least \$100,000/\$200,000 vehicle liability insurance and property damage coverage of \$50,000. Failure to maintain the required personal injury coverage during periods of private sector off-duty employment is a violation of the Florida Financial Responsibility Statute, Section 316.646, Florida Statutes.
  2. A written statement acknowledging potential liability and agreeing to pay for any damages or destruction of the state vehicle related to misconduct while in use of the departmental vehicle during off-duty employment.
  3. A written statement that the sworn member understands that state benefits and protection, such as insurance liability, worker's compensation benefits, and any other benefits for work-related injury or disability may not apply where the injury or disability is sustained while engaged in approved off-duty employment.
  4. A written statement that the sworn member understands that performing off-duty work in a state uniform or in a state vehicle will subject the employee to the conditions and requirements of the Bureau's internal management policies and procedures and other standards of work ethics and conduct. (CFA 9.02M "B")
- S. It is recommended that a sworn member who contracts directly with a client for the sole function of dignitary protection possess liability insurance coverage of \$1,000,000 for performance liability.
- T. At least ten working days prior to the acceptance or undertaking of any secondary employment a sworn member must complete and submit the following documents to his or her immediate supervisor (CFA 9.02M "A")(CFA 9.02M "C"):
1. Request for Outside Employment (DFS-C2-604)
  2. BFAI Secondary Employment form
  3. If the use of state space, personnel, time, equipment or supplies is requested in association with the employment, justification for the use must also be provided.
- U. Off-duty requests that are time-sensitive may be authorized by the member's District Major who will be responsible for ensuring that the off-duty employment does not constitute a conflict of interest or interfere with the member's primary duties. Time-sensitive authorizations shall be utilized under very limited circumstances and shall be immediately documented on a Request for Outside Employment (DFS-C2-604) after the verbal approval.
- V. All requests for secondary employment shall be reviewed and authorized as expeditiously as possible, and forwarded to headquarters within 10 days of submission.
- W. All approvals expire on June 30<sup>th</sup> of each year and must be submitted for renewal at least 30 days prior to July 1. (CFA 9.02M "A")

- X. If the off-duty police employment involves the use of a state vehicle, the sworn member shall provide a statement agreeing to the following:
1. Reimbursement to the state for use of a state vehicle at the rate defined in Section 112.061, Florida Statutes.
  2. He or she may be liable for payment for any damages or destruction of the state vehicle that may be incurred while it was being used for off-duty police employment; and
  3. He or she understands that state benefits and protection, such as insurance liability, workers' compensation benefits, and any other benefits for work-related injury or disability may not apply when the injury or disability is sustained while engaged in off-duty employment. (CFA 9.02M "A")
- Y. Final approval or disapproval of all off-duty employment requests requires a determination by the Chief of Personnel Management through the chain-of-command that the additional employment or employer does not conflict with Departmental employment. (CFA 9.02 M "C")
- Z. Approval of secondary employment may be withdrawn upon the discovery of any conflict of interest (CFA 9.02 M "B")(CFA 9.02 "C") or any violation of the conditions for approval stated in this section, when such employment interferes with the sworn member's primary duties or if the Bureau disciplinary standards are violated. (CFA 9.02 M "A") Withdrawal of authorization for secondary employment does not constitute a disciplinary action, and any decision regarding retraction of such privileges shall constitute a revocation to the sworn member and to employers (CFA 9.02M "C") identified on the request form. Sworn members may seek to have secondary employment privileges reinstated by following the procedures delineated in this procedure. However, approval of such request shall be withheld:
1. Until the requesting sworn member demonstrates that the violation(s) or condition(s) which prompted withdrawal of secondary employment privileges has been rectified or reporting or compensation requirements have been satisfied.
  2. If criminal violations have been alleged, until an investigation has been concluded and the sworn member is cleared of any wrongdoing.
  3. Throughout the duration of any suspension imposed for violation of the Department's disciplinary code.
  4. For other or subsequent violations of the provisions of this procedure in accordance with the following schedule:
    - a. First violation in any 12 month period – 10 days;
    - b. Second violation in any 12 month period – 30 days;
    - c. Third violation in any 12 month period – 6 months; and

- d. Fourth violation in any 12 month period – one year.
- AA. When using a vehicle (personally-owned, business or other entity owned, or state owned) for off-duty police employment, sworn members shall inform the nearest communications center by radio when they begin periods of off-duty police employment, the location at which such services are provided and a telephone number for emergency notifications. When utilizing a state vehicle, the starting mileage and vehicle number shall also be provided. At the conclusion of the detail, the sworn member shall advise the dispatcher by radio of the completion and the ending mileage. (CFA 9.02M “B”)
- BB. Sworn members shall not hold positions that discredit or embarrass the Department or diminish public confidence in law enforcement or in the Bureau’s commitment to integrity and professionalism. The Bureau’s procedure for secondary employment will comply with the provisions of the current Law Enforcement Bargaining Unit Agreement. No portion of this procedure shall be construed to limit the Bureau’s ability to sanction sworn members for breaches of discipline or violations of law. (CFA 9.01)