



**OFFICE OF THE COUNTY SHERIFF**  
**Montgomery County, Maryland**  
*Darren M. Popkin, Sheriff*



**GENERAL ORDERS/PERSONNEL PROCEDURES**

<b><u>Subject:</u></b>	<b><u>Number:</u></b>	<b><u>Effective Date:</u></b>
<b>Secondary Employment</b>	<b>2.19</b>	<b>10/2/19</b>

Policy: Requests from employees to engage in secondary employment must be in writing and filed with the Sheriff or Chief Deputy. Any employee who wants to work secondary employment must comply with the procedures established in this directive.

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**I. Definitions**

- A. Employee – All non-probationary employees of the Montgomery County Sheriff’s Office, sworn and civilian.
- B. Employment - Any work, occupation, labor or profession that results in compensation to an employee.
- C. Secondary Employment - Any employment not required by the Montgomery County Sheriff’s Office.
- D. Security Related Secondary Employment - Any employment for the express purpose of protecting the proprietary interests of the employer.
- E. Uniformed Security Related Secondary Employment – Any employment when the deputy is hired for the express purpose of protecting the proprietary interests of the secondary employer and the deputy wears a Montgomery County Deputy Sheriff uniform.

## II. Secondary Employment

- A. Employees will only engage in secondary employment with the written permission of the Sheriff or designee.
- B. The primary duty, obligation, and responsibility of every employee is to the Office of the Sheriff. Employees directed to work overtime or directed to report to work on their days off, will do so regardless of secondary employment being approved. Secondary employment should not become additional full-time employment. Secondary employment will not be considered an excuse for poor performance, absenteeism, tardiness, the employee's obligation to work overtime or being ordered on days off.

## III. Request Procedure

- A. All Secondary Employment
  - (1) Approval from the Sheriff or designee via a Secondary Employment Request Form (MCSO129) must be obtained prior to engaging in any secondary employment. *This form must document all significant aspects of the secondary employment.*
  - (2) All requests for secondary employment will be reviewed by the Sheriff or designee prior to approval to ensure compliance with this written directive.
    - (a) The Sheriff may submit requests, if necessary, to the State Ethics Commission for review.
    - (b) If the State Ethics Commission recommends against the secondary employment request, the employee may not work the secondary employment in question.
  - (3) If there is no question regarding conflict of interest, the Sheriff or designee shall act upon a request for approval of secondary employment within:
    - (a) Five (5) days after a non-probationary sworn employee submits their application.
    - (b) Seven (7) days after a non-probationary civilian employee submits their application.
    - (c) Two (2) business days for employees who are suspended without pay to work non-uniformed secondary employment.
  - (4) Approval for secondary employment of a short, spontaneous, temporary duration that requires immediate acceptance by an employee, may initially be granted by the Sheriff or designee within not more than one (1) business day. In the event that approval of the written request is subsequently denied, the employee will be required to immediately terminate the secondary employment in question.

- (5) Approval for secondary employment will be suspended by the Sheriff or designee based upon credible information that the secondary employer, official of the employing company or an employee's secondary employment supervisor, becomes the subject of a law enforcement investigation or enforcement action other than a petty offense or traffic charge where the focus of the investigation or enforcement action creates a conflict of interest between the secondary employment and the employee's status as a deputy sheriff.
  - (a) Employment suspended under this section may be reinstated without need for reapplication, at the conclusion of the law enforcement investigation or enforcement action.
- (6) Employees who engage in secondary employment without approval are subject to disciplinary action.
- (7) The approval of multiple secondary employment requests by individual employees will be based on the total number of anticipated hours worked at secondary employment and the impact of such hours on the employee's ability to adequately perform their Sheriff's Office responsibilities.

B. Security and Uniformed Secondary Employment

In addition to the Secondary Employment Request (MCSO129), the deputy must also submit a completed Employer Agreement for Security Related Work (MCSO130) to the Sheriff or designee for approval prior to working the secondary employment.

**IV. General Secondary Employment Restrictions**

- A. Employees must not engage in any secondary employment which is in conflict with the interest, purpose or mission of the Montgomery County Sheriff's Office or the Montgomery County Government.
- B. Employees must not engage in any secondary employment which will adversely affect their ability to perform their regular duties or the quality of their work.
- C. Employees must be permanent status employees of the Montgomery County Sheriff's Office. Probationary employees will not work any secondary employment.
- D. The employee's most recent performance planning and evaluation must be a minimum of meets expectations for Municipal & County Government Employees Organization, United Food and Commercial Workers, Local 1994, AFL-CIO (MCGEO) members and successful performance for non-MCGEO members.
- E. Employees will not engage in secondary employment during the actual hours for which they are scheduled to work for the Sheriff's Office, while on approved sick leave, FMLA, parental leave, disability leave, administrative leave, or professional improvement leave. However, employees may not engage in secondary employment during any period while on sick leave, disability leave, and FMLA if the employment can be reasonably construed to delay or preclude full recovery and return to work.

- F. Employees may not accept or solicit referrals for their secondary employment during their regular scheduled work hours.
  - G. Employees are prohibited from working secondary employment for:
    - (1) Debt Collectors,
    - (2) Private Process Servers,
    - (3) Skip Tracers,
    - (4) Employers engaging in repossession of property,
    - (5) Employers doing pre-employment investigations,
    - (6) Bail Bonding Agencies,
    - (7) Employers engaging in the towing of vehicles, and
    - (8) Employers engaged in the private investigator, or private detective business.
  - H. If an employee owns a business or is in charge of hiring personnel, including office employees, the employee must disclose this information when application is made for secondary employment.
  - I. No employee shall operate a school bus immediately after working a midnight shift.
  - J. Employees will not divulge their association with the Montgomery County Sheriff's office in the course of their secondary employment as a salesperson.
  - K. No scheduling, coordinating or other similar activities regarding secondary employment will be permitted during regular scheduled work hours.
- V. Security Related Secondary Employment Restrictions
- A. Deputies in the performance of their secondary employment will not take advantage of any services provided by the Office unless in the performance of legitimate police action.
  - B. Deputies engaging in secondary employment in any capacity for any business that sells, dispenses or handles alcoholic beverages will be in uniform; except in the following exceptions: a deputy may work for a store, restaurant, motel, hotel, country club or similar establishment as a security person, desk clerk, or similar capacity, provided no part of their duties are related to or involve the bar area where alcoholic beverages are sold or dispensed, the employment does not require "bouncer" duties and the sale, dispensing or handling of alcoholic beverages is not the primary business of the establishment.

- C. Deputies will not use any Sheriff's Office equipment or exercise any police authority while engaged in any secondary employment while their police powers are suspended.
- D. Except for uniformed secondary employment, deputies will not engage in secondary employment if the authority vested in them as a Montgomery County deputy sheriff is a requirement for obtaining or holding the employment.
- E. Deputies will not be permitted to work security related secondary employment unless the secondary employer agrees:
  - (1) The deputy must be paid by check showing proper deductions for Social Security and all other applicable taxes.
  - (2) The deputy must be covered by Worker's Compensation Insurance provided by the secondary employer.
  - (3) The secondary employer must maintain a comprehensive general public liability insurance policy in minimum amounts of \$500,000. The policy must cover the deputy against any and all claims and liability from or related to such secondary employment.
  - (4) For incidents arising from or related to secondary employment activity, the secondary employer will pay deputies for appearing in court or court-related proceedings for civil cases; and will pay deputies for appearing in court for criminal cases on their day off or during non-regularly scheduled working hours.
  - (5) The secondary employer may not allow the deputy to work beyond March 1<sup>st</sup> which is the end of the initial or any subsequently authorized period. A new agreement must be executed and additional authorization obtained from the Montgomery County Sheriff's Office for work beyond this time period.
- F. If a deputy determines that an incident report should be written, the deputy will call an on-duty officer to take the report and initiate an investigation to the same extent as if a private citizen had called the police. This policy is not intended to prohibit a deputy witnessing a crime from taking immediate and appropriate law enforcement action. However, once the situation is under control, the said deputy will call on-duty officers.
- G. The deputy will work only as a surveillance guard and, in this respect, should the deputy anticipate a situation where the presence of uniformed officers would have a calming or deterrent effect, on-duty officers will be requested.
- H. Security related secondary employment will be limited to duties customarily associated with those performed by a watchman or guard, and not include background investigations or any form of investigative surveillance work related to any divorce, separation or other domestic situation.

- I. No follow-up investigations of previously reported offenses will be handled by off-duty deputies, and all information coming to their attention relating to such incidents will be reported to investigating officers.
- J. While on duty with the Sheriff's Office, the employee will show no preferential coverage to the place of the deputy's secondary employment, nor while employed off-duty will the deputy encourage visitation by on-duty deputies.
- K. A deputy will not establish themselves as an intermediary between a particular employer and a group of employees employed as watchmen or security guards for the purpose of scheduling, coordinating or other similar activity unless having first obtained the appropriate license from the Superintendent of the Maryland State Police.
- L. All formal charges for trespassing will be initiated only by the secondary employer or their designee, which will not include the Sheriff's Office employee.
- M. For incidents arising from or related to secondary employment activity, the secondary employer must pay the deputy for appearing in court or court related proceedings for civil cases; and must pay the deputy for appearing in court for criminal cases on the deputy's day off or during non-regularly scheduled work hours. During normal work hours, deputies attending court or court related proceedings for civil cases arising from secondary employment are required to use annual or compensatory leave.
- N. Whenever a deputy initiates a law enforcement action and said law enforcement action is related to the secondary employment or is initiated at the direction of the secondary employer, the Sheriff's Office, the State of Maryland and the Montgomery County Government are not liable for damages or claims resulting from or related to such law enforcement action.

#### **VI. Uniform Secondary Employment Restrictions**

- A. Deputies will only work uniform secondary employment within the boundaries of Montgomery County.
- B. Deputies may work secondary employment in uniform only as a watchman or surveillance guard.
- C. Deputies may only work secondary employment for establishments that sells, distributes or serves alcoholic beverages when two or more sworn law enforcement officers (excluding SPOs) are hired to work and are present the entire time, and provided that no part of the employee's specific duties are related to, or involve the bar area where alcoholic beverages are sold or dispensed, the employment does not require "bouncer" duties and the sale, dispensing or handling of alcoholic beverages is not the primary business of the establishment. A designee from the Sheriff's office must within five (5) days of receiving the Secondary Employment Request:

- (1) Verify the establishment's liquor license,
  - (2) Visit the establishment and speak to the owner verifying all secondary employment forms have been completed, and
  - (3) Verify the employer agrees to the stipulations listed in §VI, C.
- D. Deputies are only authorized to work uniform secondary employment a maximum of sixteen (16) hours in a forty hour work week, days off are excluded.
- E. Deputies will only work uniform secondary employment on the premises of the secondary employer, or on property immediately adjacent to the secondary employer's property.
- F. Uniform secondary employment is prohibited in the following circumstances:
- (1) The deputy's police powers are suspended or revoked.
  - (2) The deputy is on a leave status identified in §V, C, in a leave without pay status or on light or limited duty status.
  - (3) Gambling is occurring in the secondary employment establishment (other than the sale of state lottery tickets by the secondary employer).
  - (4) It is probable that on-duty law enforcement officers would respond as a result of a demonstration, protest march, sit-in, labor/management dispute, or mass arrest situation.

## **VII. Expiration of Approval for Secondary Employment**

- A. Limited Approval – Remains in effect until the secondary employment is completed. This is used for short term, temporary employment.
- B. Twelve Month Approval – Initial approval for security related secondary employment will extend to the next March 1<sup>st</sup> if the initial approval period is six (6) months or more and to the second March 1<sup>st</sup> if the initial approval period is less than six (6) months. All subsequent approvals for security related secondary employment will be for renewal periods of one (1) year. To continue the security related secondary employment, the employee must submit a new request for each new one (1) year period by March 1<sup>st</sup>.
- C. Indefinite Approval - Remains in effect until the non-security secondary employment is completed or the employee or employer changes the status or nature of the work.
- D. Secondary employment that was in effect at the issuance of this revised directive will remain in effect unless rescinded for other cause or prohibited by this directive or by law.

**VIII. Uniforms and Equipment**

Employees, in the performance of their secondary employment, are permitted to carry and utilize the following personally issued county equipment:

- A. Weapons/Protective instruments (carried in an inconspicuous manner unless uniformed) for which they are currently qualified and authorized to carry: handgun; OC spray; baton; flashlight, electronic control device and off-duty weapons.
- B. Portable radio; ballistic vest; handcuffs; MCSO badge and credentials.
- C. Baseball cap or other headgear (uniformed only).
- D. Employees may wear the uniform of the day and authorized issued equipment while engaged in uniformed secondary employment and while going to and from the secondary employment site. If the uniform is worn, the entire uniform along with the Sam Browne belt, revolver/pistol, handcuffs, ASP and portable radio must be worn by the deputy.

NOTE: Under the provisions of the CJIS Law, it is a violation to disseminate criminal records information to non-criminal justice agencies or to anyone when not in the scope of official business. Further, obtaining any information, criminal or non-criminal, can only be done in the same capacity as a private citizen when not for official law enforcement activity. Any deviation from this can subject the employee to tort liability.

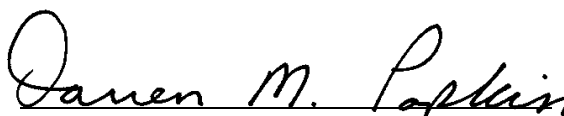
**IX. Cancellation of Secondary Employment**

- A. Any employee who ceases or cancels their secondary employment must notify the Sheriff or designee, by memorandum via the chain of command, within fourteen (14) days.
- B. The Sheriff has the authority to cancel, temporarily or permanently, permission of any employee to engage in secondary employment. The affected employee will be notified, by memorandum, of the reason for any termination.

**X. Cancellation**

This written directive cancels and replaces General Orders/Personnel Procedures 2.19, effective date *09/11/2015*.

AUTHORITY:



Darren M. Popkin, Sheriff

10/2/2019