

## Outside Employment

### 1027.1 PURPOSE AND SCOPE

To avoid actual or perceived conflicts of interest for office employees engaging in outside employment, all employees shall initially obtain written approval from the Sheriff prior to engaging in any outside employment. Approval of outside employment shall be at the discretion of the Sheriff in accordance with the provisions of this policy.

It is management's right to prohibit conduct that has the potential to cause disruption in the work force. In exercising this right the Clay County Sheriff's Office requires all full-time personnel treat their employment with the Clay County Sheriff's Office as their primary employment. It also recognizes that personnel may choose to supplement their income through secondary employment. It shall be the policy of the Clay County Sheriff's Office to allow personnel to engage in secondary employment provided such employment would not constitute a conflict of interest or would tend to bring discredit to the agency.

This policy provides the opportunity for commissioned and non-commissioned members of the Sheriff's Office to engage in outside employment. The policy establishes the conditions by which Sheriff's Office members will be held responsible when requesting and engaging in outside employment.

#### 1027.1.1 DEFINITIONS

Definitions related to this policy include:

**Outside employment** - The employment of any member of the Clay County Sheriff's Office who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with the Clay County Sheriff's Office for services, products or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with the Clay County Sheriff's Office for services, products or benefits rendered.

**Outside overtime** - Overtime involving any member of the Clay County Sheriff's Office who performs duties or services on behalf of an outside organization, company or individual within this jurisdiction on behalf of the Clay County Sheriff's Office. Such outside overtime shall be requested and scheduled directly through the Clay County Sheriff's Office so that the Clay County Sheriff's Office may be reimbursed for the cost of wages and benefits.

#### 1027.1.2 INTRODUCTION

- (a) The objectives of the policy are to avoid any negative effects of outside employment on any member's performance; disallow any outside employment which may bring discredit to the Sheriff's Office; and offer equal opportunity for all qualified members to obtain outside employment at public and private events.

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- (b) Members shall not engage in outside work while performing department assigned duties.
- (c) Outside Employment that constitutes a conflict of interest is prohibited. Employees may not receive any income or material gain from individuals outside County Government for materials produced or services rendered while performing their jobs for the County.
- (d) The term 'commissioned members' refers to both paid full time, part time and unpaid volunteer commissioned deputies.
- (e) The term 'non-commissioned members' refers to both paid full time and part time and unpaid volunteer non-sworn.
- (f) Commissioned and non-commissioned members of the Sheriff's Office may participate in outside employment.
  - 1. The provisions of this policy apply to reserve deputies and non-sworn volunteers with the exception of their primary profession or employment.
  - 2. Full time deputy trainees may not engage in outside employment while attending the academy or Basic Law Enforcement Class required for obtaining an initial P.O.S.T. certification.
- (g) The Sheriff has final approval on all requests for outside employment.

### 1027.1.3 POLICY

- (a) Prior to working any outside employment, including any type of self-employment, the Sheriff's Office member must submit the proper Sheriff's Office label(s) to their supervisor and receive approval through the chain-of-command.
- (b) An employee may be asked to terminate or suspend outside employment in order to remain an employee of the Sheriff's Office if the Sheriff or a Division Commander has reason to believe that an employee's outside work is interfering with an employee's performance or ability to meet their requirements of the position. The decision to ask an employee to terminate or suspend outside employment must be approved by the Sheriff.
- (c) TYPES OF OUTSIDE EMPLOYMENT JOBS:
  - 1. The types of outside employment jobs worked by non-commissioned members must be non-law enforcement in nature unless the member is a commissioned officer for another law enforcement agency.
  - 2. Members are prohibited from engaging in outside employment at a tavern, cocktail lounge, or similar establishments and the parking lot of such or in any other capacity, which might reflect discredit on the Sheriff's Office. This does not prohibit the acceptance of outside employment at an establishment,

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which derives less than fifty percent (50%) of its gross income from the sale of alcoholic beverages. Commissioned members shall not tend bar or serve alcoholic beverages at any establishment.

### (d) SICK LEAVE, INJURY LEAVE, SUSPENSION

1. A full time commissioned member on sick leave associated with the member's health, approved light duty or unpaid leave status may not work an outside employment job.
2. Full time commissioned members on suspension are forbidden from working outside employment which entails the wearing of the deputy uniform or need for police authority. They may work jobs which are not related to law enforcement, e.g., carpenter, truck driver, store manager, sales associate etc.
3. A member will be considered off of sick leave and eligible to work off duty 8 hours AFTER the end of the shift for which they used sick leave.

### (e) LEGAL AUTHORITY OF COMMISSIONED MEMBERS AND RESERVE DEPUTIES WHILE EMPLOYED OUTSIDE

1. The law enforcement authority vested in a commissioned member of this Sheriff's Office extends only to the locations within the County of Clay.
2. The law enforcement authority vested in a commissioned member while working outside employment is limited to the enforcement of county ordinances and state and federal statutes.
3. Outside employer policies, procedures or practices shall not include provisions requiring a law enforcement action while working in an outside employment capacity.
4. commissioned member while working outside employment will be considered working for the employer or contracting entity while providing non-law enforcement services consistent with those requested by the employer or contractor.
5. A commissioned member's outside status will be changed to 'on-duty' if the commission member engages in the enforcement of any county ordinance or state or federal law unless the outside employment is for another law enforcement agency.
6. A commissioned member who is assaulted or through the enforcement of any county ordinance or state or federal law detains or arrests a subject shall request an on-duty deputy to respond to the scene for the purposes of taking custody of the offending person and transporting the offender to the detention center. A

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commissioned member will not be on-duty if the member's actions are to simply detain a person for the purpose of turning the person over to a jurisdictional officer of another agency.

7. A commissioned member who takes an action that requires a report be made or arrests a suspect will file a report as outlined in below.
  - (a) When a commissioned member working outside employment is required to write an on-duty report, a case number (report number) will be obtained from the Clay County Communications Center for the area in which the outside employment is located.
  - (b) The commissioned member must deliver the report to the Sheriff's Office within the time constraints dictated by the nature of the detainment or arrest but no later than the end of the outside member's next regular shift unless
  - (c) The member is on an extended vacation or FMLA, etc. or is a reserve deputy, then within one day following the end of the outside period
  - (d) Members on an extended vacation will have the option of extending their vacation by the number of on-duty hours or receive overtime pay for the on-duty time used to complete and submit the report
  - (e) The status of members on FMLA will be changed to 'Intermittent leave' and the on-duty time will not be charged against the FMLA benefit. The member's return to duty date will not be affected because of the change in status during the intermittent on-duty period.
  - (f) Any reports prepared for the benefit of the outside employer concerning incidents not specifically connected with a member's law enforcement actions shall be written by the outside commissioned member if the outside employer requests such a report and the request is made while the outside commissioned member is present subject to the limitations below.
  - (g) Reports prepared by the commissioned member for an outside employer shall not cover incidents of a nature in which an on-duty commission member of this Sheriff's Office or another law enforcement agency would normally be called to take a report if the outside member was not present, e.g., fraud, embezzlement, property damage, etc unless taking such reports has been determined to be an acceptable practice prior to the start of the outside employment.
  - (h) Any reports prepared by a commission member where the incident changes the commission member status to on-duty will be written and approved by a supervisor and will only be available to the outside employer through a Sunshine Law request.

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- (i) Reports written for the benefit of the outside employer shall not list the Clay County Sheriff's Office as the complainant. The commissioned member may sign as the complainant for the outside employer but not when the commissioned member is the investigating, detaining or arresting officer.
- (j) The commissioned member's status will revert back to off-duty status upon the completion of the required on-duty activities by the commissioned member associated with the on-duty enforcement event.
- (k) When an action taken by a regular commission member changes the member's status to on-duty, the member will prepare an 'Outside Employer Time Exception Form' indicating the time duration the commissioned member's status had changed to on-duty paid by Clay County. The outside employer will need to sign the label and be provided a copy.

### (f) INJURIES DURING OUTSIDE EMPLOYMENT

- (a) The member working an outside employment job as an employee of the outside employer becomes the agent of the outside employer rather than the agent of the Clay County Sheriff's Office when not performing under the authority of the Clay County Sheriff's Office.
  - (a) Any member of this Sheriff's Office who sustains any injury requiring any label of medical attention while working for an outside employer, while in the outside employment status, shall comply with the procedures set forth by that employer for benefit coverage.
  - (b) Payment of medical expenses, workman's compensation or other expenses arising out of injuries sustained while the member is in an outside employment status shall not be the responsibility of the Clay County Sheriff's Office or the County of Clay.
  - (c) An injury sustained while working outside employment occurring in conjunction with the exercising of the Sheriff's Office police powers will be reported as an on-duty injury in accordance with the on-duty injury policy.
- (b) Time away from Sheriff's Office work resulting from an outside employment injuries will be carried as sick days and may fall under FMLA even if being paid by worker's compensation from another job.

### 1027.1.4 PROCEDURES

#### (a) MEMBER'S RESPONSIBILITIES:

1. Outside employment - Commissioned and non-commissioned members:

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- (a) Must submit the current SECONDARY EMPLOYMENT REQUEST FORM (Outside Employment Form) to engage in employment during outside periods to their immediate supervisor to be forwarded up the chain of command.
  - (b) Must also submit the appropriate completed 'Agreement' label designated for outside employment when the outside employer is a police agency, fire department or dispatch unit of a city or county agency. The completed 'Agreement' label must be submitted at the same time the 'Outside Employment Form' is submitted.
  - (c) Members incurring health related issues associated with their outside employment which may diminish the member's ability to perform their Clay County Sheriff's Office assigned duties shall notify either their immediate supervisors or division commander promptly and indicate the nature of the health related issue that prevents the member from performing his/hers normal duties.
- (b) Commissioned Members:
- (a) Must include in the 'Outside Employment Form' the outside employment will be in uniform and indicating whether the outside employment includes seasonal or specific types of jobs (special shows, building security, basketball and football games, etc.) (NOT REQUIRED FOR POOL REQUESTS).
  - (b) Must submit an updated Sheriff's Office 'Outside Employment Form' prior to January 15th of each year for continuation of outside employment.
  - (c) Unpaid volunteer reserve deputies shall submit requests through their assigned division supervisor for outside employment.
  - (d) Reserve deputies employed by the Sheriff's Office in a non-commissioned position shall submit requests through their supervisor for outside employment.
- (c) SUPERVISOR/COMMANDER'S RESPONSIBILITIES:
- (a) Review the member's outside employment application for accuracy, completeness, and to determine that the request is within policy. Supervisors or commanders shall;
    - (a) Make appropriate recommendation based on such factors as the member's job performance and experience, sick leave taken, and past personal experience.
    - (b) If appropriate, provide documentation supporting a position that the outside employment job has shown to adversely affect the member's job performance during regular duty hours.

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- (c) Forward documents addressing these issues through the chain-of-command to the Sheriff.
- (d) SHERIFF'S RESPONSIBILITY:
  - 1. Make the final decision regarding the member's request for outside employment.
  - 2. Forward the approved label(s) to the supervisor and a copy to the member.
  - 3. Return disapproved labels to the supervisor and member with a written statement explaining the reason the request was denied.
- (e) MISCELLANEOUS
  - 1. All members shall submit outside employment requests, including first responder agreements, as defined above.
  - 2. Commissioned members coordinating specific outside employment jobs shall determine the number of officers necessary to properly perform the associated duties for adequate security. Factors considered for determining adequate security will include the location of the job, the size of the facility and the traditional temperament, attitude, and size of the anticipated crowd.
  - 3. Outside jobs will normally be posted by e-mail. However, not all outside employment must be posted if the employment is designated for specific members or intended for members with specialized training or skills. Notification by email shall be sent to eligible members of the posting to allow for an equal opportunity for members to sign up for the outside employment. The notification should be sent out as far in advance of the actual posting as possible indicating the type, date, time, location and number of members needed for the outside employment and the time the posting will be available for signup.
  - 4. Each member will ensure that they have a current Sheriff's Office application label on file covering the posted outside employment request.

### **1027.2 OBTAINING APPROVAL**

No member of the Clay County Sheriff's Office may engage in any outside employment without first obtaining prior written approval of the Sheriff. Failure to obtain prior written approval for outside employment or engaging in outside employment prohibited by this policy is grounds for disciplinary action.

To obtain approval for outside employment, the employee must complete an application that shall be submitted to the employee's immediate supervisor. The application will then be forwarded through the appropriate chain of command to the Sheriff for consideration.

If approved, the employee will be provided with a copy of the approved application. Unless otherwise indicated in writing on the approved application, an approved application will be valid

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through the end of the calendar year in which it is approved. Any employee seeking to continue outside employment shall submit a new application in a timely manner.

Any employee seeking approval of outside employment whose application has been denied shall be provided with a written reason for the denial of the application at the time of the denial and within 30 days of the application.

### **1027.2.1 APPEAL OF DENIAL OF OUTSIDE EMPLOYMENT**

If an employee's application is denied or rescinded by the Sheriff's Office, the employee may file a written notice of appeal to the Sheriff within 10 days of the date of denial.

If the employee's appeal is denied, the employee may file a grievance pursuant to the Grievance Policy.

### **1027.2.2 REVOCATION/SUSPENSION OF AN APPROVED OUTSIDE EMPLOYMENT APPLICATION**

Any approved outside employment application may be revoked or suspended. The employee shall receive written notification of the reasons for revocation or suspension. Additionally, revocation will only be implemented after the employee has exhausted the appeal process.

The outside employment may be revoked:

- (a) If an employee's performance declines to a point where it is evaluated by a supervisor as needing improvement to reach an overall level of minimum acceptable competency, and the outside employment may be related to the employee's performance. The Sheriff may, at his/her discretion, notify the employee of the intent to revoke any previously approved outside employment application. After the appeal process has concluded, the revocation will remain in force until the employee's performance directly related to the outside employment has been re-established to the minimum level of acceptable competency.
- (b) If, at any time during the term of an approved outside employment application, an employee's conduct or outside employment conflicts with the provisions of sheriff's office policy, or any law.
- (c) The outside employment creates an actual or apparent conflict of interest with the Sheriff's Office or the County.

### **1027.3 PROHIBITED OUTSIDE EMPLOYMENT**

The Clay County Sheriff's Office expressly reserves the right to deny any application submitted by an employee seeking to engage in any activity that:

- (a) Involves the employee's use of Sheriff's Office time, facilities, equipment or supplies, the use of the Sheriff's Office badge, uniform, prestige or influence for private gain or advantage.

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- (b) Involves the employee's receipt or acceptance of any money or other consideration from anyone other than this office for the performance of an act that the employee, if not performing such act, would be required or expected to render in the regular course or hours of employment or as a part of the employee's duties as a member of this office.
- (c) Involves the performance of an act in other than the employee's capacity as a member of this office that may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other employee of this office.
- (d) Involves time demands that would render performance of the employee's duties for this office below minimum standards or would render the employee unavailable for reasonably anticipated overtime assignments and other job-related demands that occur outside regular working hours.

### 1027.3.1 OUTSIDE SECURITY EMPLOYMENT

Due to the potential conflict of interest, no member of the Clay County Sheriff's Office may engage in any outside or secondary employment as a private security guard, private investigator or other similar private security position.

Any private organization, entity or individual seeking special services for security or traffic control from members of the Clay County Sheriff's Office must submit a written request to the Sheriff in advance of the desired service. Such outside overtime will be monitored by the designated commander.

- (a) The applicant will be required to enter into a written indemnification agreement prior to approval.
- (b) The applicant will be required to provide for the compensation and full benefits of all employees requested for such outside security services.
- (c) If such a request is approved, any employee working outside overtime shall be subject to the following conditions:
  - 1. The deputy shall wear the sheriff's office uniform/identification.
  - 2. The deputy shall be subject to all the rules and regulations of this office.
  - 3. No deputy may engage in such outside employment during or at the site of a strike, lockout, picket or other physical demonstration of a labor dispute.
  - 4. Compensation for such approved outside security services shall be pursuant to normal overtime procedures.
  - 5. No deputy may engage in outside employment as a law enforcement officer for any other public agency without prior written authorization of the Sheriff.
  - 6. The deputy working outside overtime or secondary employment will contact the Clay Communications Center on their Sheriff's Office radio and advise that they are on-duty at said assignment, and specify where the location of the

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assignment is. Conversely, when going off-duty from that assignment, they will also notify the Clay County Communications Center when they are going off-duty via radio communication. The Clay County Communications Center will log said information into the CAD system for record-keeping, as well as maintaining an audio recording of the information.

### **1027.3.2 OUTSIDE OVERTIME ARREST AND REPORTING PROCEDURE**

Any employee making an arrest or taking other official law enforcement action while working in an approved outside overtime assignment shall be required to complete all related reports in a timely manner pursuant to sheriff's office policy. Time spent on the completion of such reports shall be considered incidental to the outside overtime assignment.

### **1027.3.3 SPECIAL RESTRICTIONS**

Except for emergency situations or with prior authorization from the Division Commander, undercover deputies or deputies assigned to covert operations shall not be eligible to work overtime or other assignments in a uniformed or other capacity that might reasonably disclose the deputy's law enforcement status.

## **1027.4 OFFICE RESOURCES**

Employees are prohibited from using any office equipment or resources in the course of or for the benefit of any outside employment except such as are authorized . This shall include the prohibition of access to official records or databases of this office or other agencies through the use of the employee's position with the Sheriff's Office except such as are authorized.

### **1027.4.1 REVIEW OF FINANCIAL RECORDS**

Employees approved for outside employment expressly agree that their personal financial records may be requested and reviewed/audited for potential conflict of interest. Prior to providing written approval for an outside employment position, the Sheriff's Office may request that an employee provide his/her personal financial records for review/audit in order to determine whether a conflict of interest exists.

Failure of the employee to provide the requested personal financial records could result in denial of the outside employment application. If, after approving a request for an outside employment position, the Sheriff's Office becomes concerned that a conflict of interest exists based on a financial reason, the Sheriff's Office may request that the employee provide his/her personal financial records for review/audit. If the employee elects not to provide the requested records, his/her outside employment application may be revoked pursuant to this policy.

## **1027.5 CHANGES IN OUTSIDE EMPLOYMENT STATUS**

If an employee terminates his/her outside employment during the period of an approved application, the employee shall promptly submit written notification of such termination to the Sheriff through the appropriate chain of command. Any subsequent request for renewal or continued outside employment must thereafter be processed and approved through normal procedures set forth in this policy.

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Employees shall also promptly submit in writing to the Sheriff any material changes in outside employment including any change in the number of hours, type of duties or demands of any approved outside employment. Employees who are uncertain whether a change in outside employment is material shall report the change.

### **1027.6 OUTSIDE EMPLOYMENT WHILE ON DISABILITY OR ADMINISTRATIVE LEAVE**

Clay County Sheriff's Office employees who are engaged in outside employment who are placed on disability or administrative leave or modified/light-duty shall inform their immediate supervisor. Clay County Sheriff's Office employees who are engaged in outside employment who are placed on disability or administrative leave or modified/light-duty shall be suspended from participating in ANY outside employment until the employee returns to full duty.