

Managing Department Secondary Employment

Captain Ken Sumpter

Abstract

A law enforcement officer working secondary employment within the city of Tallahassee is common. Officers working events vary from security at stores, security within apartment complexes or assisting with traffic at a family event are routine. Nationally, concern has risen pertaining to officers failing to pay taxes on income earned “under the table” or questions pertaining to workman’s compensation benefits following an injury related to an off-duty detail. The author was tasked by the Chief of Police to look into the options available to the Tallahassee Police Department in managing secondary employment while ensuring the agency is protected from improper police actions. Specifically, should the current practice of operating through individual officers’ called coordinator be changed to the purchase of a program that tracks all off-duty employment which is supervised by agency staff thus replacing all coordinators and assigning off-duty assignments on a first come first assigned basis?

Introduction

Nationwide it is an accepted practice for police officers, seeking to increase their annual income, to find additional employment that utilizes their training and position as a law-enforcement officer. This practice is generally covered under agencies policies and procedures and is defined within secondary employment or off-duty employment.

In the era of mass media and the quickness of technology, when one officer violates a community trust it affects officers all over the country. The actions of an officer can adversely affect the reputation of their agency as well as law enforcement nationwide.

Officers have been found to violate the community trust by working secondary employment and failing to properly file taxes, which has reflected negatively on the profession. This concern is compounded with legitimate concerns of protecting officers working under good faith and sustaining injuries while working secondary employment. The question stands in Tallahassee: Will the city provide workman compensation benefits if an officer sustains an injury while working for another employer in a secondary employment capacity?

Chief Jones, Tallahassee Police Department, charged his staff to examine this research and review the policies of the agency. This author’s objective is to determine if

our current policies are sufficient or is it time for the agency to pursue a new direction of managing secondary employment.

Literature Review

What are law enforcement agencies doing to protect the department from inappropriate actions of law enforcement officers while working secondary employment? A review of seventeen secondary employment policies from agencies of similar size to the Tallahassee Police Department (see scale in Methodology) reveals how the agencies coordinate secondary employment. Some agencies continue to use individual officers to coordinate security for a business. This practice involves the business paying the officer directly for their services. The officer through their routine tax claims pays all taxes. The coordinating officer also assigns officers to the detail. Other agencies choose to have the agency itself coordinate all secondary employment through the agencies with personnel assigned to fulfill such tasks. Officers assigned to the detail are coordinated by the agency and payment for services is through the department.

In 2008, the Denver Police Department faced public scrutiny relating to officers working secondary employment. *The Denver Post* and the *Rocky Mountain News* documented numerous violations by officers involving work hours, coordinating fees, salary and violations of department policies. (Osher, 2008) (Kass, 2008)

The Entrepreneur Magazine examined the concern of private sector employing public employees, due to specific training or qualifications. Concerns relating to method of payment, filing of taxes and the blurring of loyalty between an officers department and the employer of secondary employment are discussed. Individual agencies must analyze the issue and compare it to the current policies to ensure they are upholding the public trust and protecting the liability of the agency as well as the city. (Brunet, 2008)

As recent as October 2009, the Capital Broadcasting Company, Inc., published an article relating to the Durham Police Department, North Carolina. The article points to an internal report by the agency that recommended hiring a civilian to coordinate the secondary employment program of the Durham PD. This report also recommended having all payments for such employment through the city of Durham. (Hartness, 2009)

Methodology

The methodology used for this study was conducted in four parts: a review of agency policies in comparison to the Tallahassee Police Department (TPD) pertaining to secondary employment, an informal poll of sworn officers of the TPD to determine their opinion on the current practices, interviews with members of City of Tallahassee management personnel, Union management with the Big Bend Chapter of the Police Benevolent Association and a review of articles pertaining to the topics of taxation or injury sustained related to secondary employment and a review of software available to manage secondary employment.

A review of policies was conducted with Collier County SO, Daytona Beach PD, Escambia County SO, Gainesville PD, Hialeah PD, Hollywood PD, Manatee County SO, Marion County SO, Miami Beach PD, Okaloosa County SO, Osceola County SO, Pasco County SO, Sarasota County SO, Seminole County SO, Saint Johns County SO, Volusia County SO and West Palm Beach PD. The agencies selected are comparable in number of sworn-personnel to the Tallahassee Police Department. The purpose of the review was

to evaluate TPD’s current policy and determine if a process improvement was in order to improve the department’s procedures and posture against liability from officers failing to follow proper protocols.

Below are the results relating to the review of secondary employment policies. The agencies were selected based on their number of sworn officers. The Tallahassee Police Department currently employs 355 sworn personnel. The agencies selected are within one hundred sworn officers above or below the Tallahassee Police Department. The chart identified the Tallahassee Police Department as the only agency that does not employ an internal coordinator. Daytona Beach, Escambia County, Hollywood PD, Miami Beach PD and Okaloosa County authorize officers to coordinate specific locations based on duration, but they do so in cooperation with the agency’s coordinator.

AGENCY	AGENCY COORDINATED	DEPUTY/OFFICER COORDINATED
Collier County SO	X	
Daytona Beach PD	X	X
Escambia County SO	X	X
Gainesville PD	X	
Hialeah PD	X	
Hollywood PD	X	X
Manatee County SO	X	
Marion County SO	X	
Miami Beach PD	X	X
*Okaloosa County SO	X	X
Osceola County SO	X	
Pasco County SO	X	
Sarasota County SO	X	
Seminole County SO	X	
St. Johns County SO	X	
Tallahassee PD		X
Volusia County SO	X	
West Palm Beach PD	X	

*NOTE: Okaloosa County SO did not provide a copy of their policy pertaining to Secondary Employment. The information provided for the survey was obtained through an interview with Sergeant John Bush whom oversees Secondary Employment.

An informal survey was distributed to 368 sworn members within the TPD. The purpose of the survey was to conclude the percentage of officers participating in secondary employment, their method of payment, which could affect filing for taxes and concerns pertaining to injury.

	Strongly Agree	Agree	Undecided	Disagree	Strongly Disagree	Total Responses	Response Average
I work Secondary Employment	50	31	10	7	19	117	2.26
I depend on Secondary Employment for annual income	15	27	9	20	46	117	3.47
Every officer should be given equal opportunity to work a specific	45	29	10	17	15	116	2.38

secondary employment location							
The current practice of individual coordinators for business should remain the same	37	30	35	8	7	117	2.30
The agency should coordinate assigning officers to employment	7	10	27	20	53	117	3.87
The business should pay the officer directly	62	23	21	4	7	117	1.89
Income from secondary employment should be received/distributed through the agency	6	4	19	22	66	117	4.18
All secondary employment should be paid the same	5	3	19	29	59	115	4.17
I've been paid in cash for working secondary employment	32	38	7	14	22	113	2.61
The COT is entitled to a stipend of my secondary income for use of city equipment	4	26	17	25	45	117	3.69
If injured while working secondary employment I will be covered by Workman's Compensation	71	23	12	4	6	116	1.72
The agency has received a complaint against me from a secondary employment detail	6	4	3	10	92	115	4.55

From the survey above, you can conclude the following:

1. The majority of officers work secondary employment, but do not depend on the income.
2. Everyone should have equal access to secondary employment, but officers support the current practice of individual coordinators for businesses in lieu of a department coordinator.
3. Officers should be paid for secondary employment directly by the business in lieu of the agency collecting and disbursing funds.
4. Officers do not believe all secondary employment should be paid the same.
5. Officers have received cash for working secondary employment.
6. Officers do not feel the COT should charge them a stipend for secondary employment.
7. Officers believe they will be covered for injuries by workman's compensation.
8. The greater majority of the officers have not received a complaint from working secondary employment.

Interviews were conducted with personnel considered critical in achieving the goal to improve the secondary employment process. An interview was conducted with David Scarano an accountant with the City of Tallahassee Department of Management Administration Services. Our discussion was based on the City's ability to implement software to coordinate secondary employment. Mr. Scarano expressed some concern regarding manpower necessities to employ such software, but offered that with the necessary staffing and software the accounting office could support such software capabilities. Additionally, Mr. Scarano offered his opinion that such change of protocol with the TPD would be beneficial in protecting the City against officers failing to properly file federal taxes. An interview was conducted with Mr. Corlis Hill, a

representative of City Risk Management. The purpose of the interview was to determine if officers injured while working secondary employment when not performing a police action would be covered under the City's Workman Compensation. The information Mr. Hill provided reflected the City's policy and was in line with the Florida Attorney General's Advisory Legal Opinion offered on January 10, 1997. The City will provide workman's compensation benefits for an officer working secondary employment if the injury occurs while performing law enforcement duties, i.e., making an arrest. However, if an officer is injured while conducting other activities during such employment the business employing the officers services would be responsible for providing workman's compensation. Lastly, an interview was conducted with Mr. Tyler Hall, the Senior Vice President of the Big Bend Chapter of the Police Benevolent Association. The purpose of the interview was to determine any objections by the association related to potential changes in the department's current policy. Mr. Hall stated the current contractual agreement between the City of Tallahassee and the Big Bend Chapter of the Police Benevolent Association (PBA) does not restrict the TPD from changing its policy to employ an agency coordinator. However, he expressed concern that any change of practice should be discussed and agreed upon by the association and agency.

In an effort to determine software programs available for implementation with current software within the TPD, I met with Mr. Greg Frost, Executive Services Division Director. Mr. Frost has been actively exploring secondary employment within the TPD and has conducted numerous meetings with agency personnel. Mr. Frost provided a list of companies currently being viewed for program support that would accommodate TPD's needs. The following companies provided outlines of their capabilities: Cover Your Assets, LLC, TeleStaff, Power Details, Jiva Soft, POSS (Police Officer Scheduling System), NOVAtime, IntelliTime and WorkForce Software. Initial meetings focused on the need for a software program that would provide on-line coordination, access by personnel and accountability of finances. The program would need to be able to accommodate current software capabilities. At this time, future meetings will need to be conducted to clarify and establish the specific needs of the TPD, program cost and implementation capabilities with current software programs.

Conclusion

The Tallahassee Police Department (TPD) currently permits officers to coordinate all off-duty employment authorized by the agency. While the fee is set by the agency, officer income from secondary employment is not monitored. When viewing agencies of similar size to the TPD, I found TPD is not up to current practice. Other agencies of similar size appoint personnel internally to coordinate off-duty employment, oversee man-hours, collect and distribute income from secondary employment. With sufficient financial and staff support, the City is capable of acquiring and utilizing software to facilitate secondary employment that will accommodate current internal software programs. Any change to the current policy governing secondary employment is not restricted by the contractual agreement between the COT and PBA. A large majority of

officers currently work secondary employment and would oppose any change to current practice, however, feel that such employment should be accessible to all sworn personnel. The majority of officers believe they will be covered by workman's compensation should they be injured while working a secondary employment detail.

Recommendation

The TPD should continue exploring policy change to our current practice regarding secondary employment. The agency should transition toward assigning personnel to coordinate authorized details, assign personnel, collect fees and distribute salaries from secondary employment. The agency should brief personnel of departmental concerns regarding current practices justifying the need for change in policy. During such meetings, the agency should provide a briefing to the officers on what type of injuries would be covered by workman's compensation while working secondary employment. Additionally, the TPD should schedule a consultation with the PBA to discuss its intentions regarding policy/practice changes prior to implementation.

In 1985 Ken Sumpter began his law enforcement career with the United States Army as a Military Police Officer. Ken has been with the Tallahassee Police Department for 23 years being sworn in January of 1988. During his career he has served in Patrol, Housing, Field Training, DARE, Criminal Investigation, Special Events and as a Watch Commander. Ken is currently a Captain serving as the Special Operation's Bureau Commander overseeing Homeland Security and the agencies Traffic and Special Events Unit. Ken holds a Bachelor's degree in Liberal Studies from Barry University.

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Daytona Beach Police Department, Extra Duty/Off Duty Employment, dated April 16, 2009.

Escambia County Sheriff's Office, Employment-Extra Duty, dated December 9, 2009.

Gainesville Police Department, General Order 22.4, Overtime/Extra Duty Details, dated January 13, 2010.

Hialeah Police Department, Standard Operating Procedure, Extra Duty Police Services, dated October 1, 2004.

Hollywood Police Department, Standard Operating Procedure, #141, Off-Duty & Extra-Duty Employment, Revised September 29, 2009.

- Manatee County Sheriff's Office, General Order number 1026, Off-Duty Employment, dated March 1, 2010.
- Marion County Sheriff's Office, Operations Directive, Code of Conduct, revised October 1, 2009.
- Miami Beach Police Department, Standard Operating Procedure, #011, Off-Duty and Secondary Employment. Revised January 4, 2010.
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Tallahassee Police Department
Inter-Agency Secondary Employment Survey

The following survey is designed to assist the agency in obtaining a view on how officers perceive the current secondary employment practice within TPD.

When completing the following questions, use the following:

- 1= Strongly Agree
- 2= Agree
- 3= Undecided
- 4= Disagree
- 5= Strongly Disagree

1. I work secondary employment. _____
2. I depend on secondary employment for my annual income. _____
3. Every officer should be given equal opportunity to work a specific secondary employment location. _____
4. The current practice of an individual coordinator overseeing a business for secondary employment should remain the same. _____
5. The agency should coordinate assigning officers to secondary employment. _____
6. The business should pay the individual officer directly. _____

Tallahassee Police Department
Secondary Employment Interviews

Greg Frost
Executive Assistant to the Chief
Tallahassee Police Department

1. Do you have any concerns related to the current agency practice on secondary employment?
2. Do you believe changes to the current policy will require negotiations with the Bargaining Unit?
3. What would you change to the current practice?

Major Cheryl Stewart
Support Bureau Commander
Tallahassee Police Department

1. Do you have any concerns related to the current agency practice on secondary employment?
2. Do you believe changes to the current policy will require negotiations with the Bargaining Unit?
3. What would you change to the current practice?

Risk Management
City of Tallahassee

1. Does City policy cover an officer injured while working secondary employment for workman's compensation?
2. When would an officer not be covered for an injury.
3. What can the officer do to insure coverage for an injury obtained while working secondary employment?

Tyler Hall
Senior Vice President
Police Benevolent Association

1. Do you believe any changes to the agencies secondary employment policy require negotiations?
2. What is the association's position on workman's compensation related to injuries sustained to an officer while working secondary employment?
3. What recommendations do you feel would improve the current policy?
4. Do you believe the City has liability on the pay officers receive while working approved secondary employment?
5. Would the association object to the agency appointing an officer to coordinate secondary employment?
6. Would the association object to the agency overseeing secondary employment through a computer program?