

# **SAN JOSE POLICE DEPARTMENT**



## **SECONDARY EMPLOYMENT UNIT**

## **PROCEDURES GUIDE**

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## 1. INTRODUCTION

The San Jose Police Department has allowed Department members to work secondary employment (“pay jobs”), for over 40 years. The California Penal Code, the City of San Jose Municipal code, and the San Jose Police Department Duty Manual each contain laws, policies, and procedures that govern the practice. The Chief of Police is provided the sole prerogative to authorize a Department member to work secondary or off-duty employment.

On June 3, 1997, the City Council adopted two new ordinances, one establishes the Secondary Employment Unit within the Police Department to regulate the off-duty employment of Department members, and the second establishes the Entertainment Zone policy plan which will allow officers to police the bars and nightclubs downtown at the on-duty overtime rate of pay.

Growth in the number of officers working secondary employment, changes in the scope of secondary employment, and concerns involving the public perception of officers engaged in secondary employment have resulted in a comprehensive review of secondary employment by San Jose Police Officers. The review and analysis focused on secondary employment in general, at City owned facilities or City sponsored events, and at businesses that sell or allow consumption of alcoholic beverages.

The Independent Police Auditor (IPA) has recognized the limitations in the Department’s management of officers working in a secondary employment capacity and commented on several related issues in her year-end report to Council. The IPA recognized that insufficient levels of supervision, inspection, and accountability had reduced compliance with Department policy, fostered potential conflicts of interest, and negatively affected the public’s perception of the Department’s professional image. Due to the volume of applications and staffing limitations, only a cursory review of the application and weekly tracking sheets occurred with this procedure.

Increased levels of direction, management, supervision, and inspection are needed to provide consistent compliance with Department policy. At times, officers are working off-duty jobs that are not authorized, exceed the maximum limit of hours allowed, and are working for employers who fail to satisfy the laws and local regulations necessary to operate a business. Some secondary employers may be confused by or unaware of the Department policy and procedures relating to off-duty employment.

Enhanced oversight is needed to reduce the potential for perceived conflicts of interest (i.e. preferential treatment and selective enforcement, cash compensation by secondary employers, off-duty assignments where supervisors are being supervised by subordinates that they normally supervise during regular duty hours).

The San Jose City Council approved and budgeted the Secondary Employment Unit (SEU) to address issues pertaining to secondary employment as outlined in the Penal Code, Municipal Code, and Duty Manual.

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SEU is attached to the Office of the Chief. SEU is designed to bring uniformity, legal and departmental policy into compliance, as well as:

1. Be a clearinghouse of new requests for off-duty employment and referral service of members wishing to work off-duty, including coordinators, schedulers and secondary employers.
2. Regulate, monitor, inspect and report on off-duty employment of Department members and secondary employers which includes eliminating conflicts of interest and improving access to the public and the perception of secondary employment.
3. Coordinate off-duty employment of all City sponsored events, festivals and parades.

Forms have been developed pertaining to off-duty employment. They include a work permit application form, and off-duty employment tracking sheet.

The Downtown Services Detail (DSD) coordinates the Entertainment Zone. This area of downtown is associated with downtown bars and nightclubs. It is important to note that all off-duty employment for Department members at establishments where the primary purpose is to sell alcohol is now prohibited. DSD will police the Downtown Entertainment Zone with Department members who are on-duty at the overtime pay rate. This is coordinated through the Central Division Patrol Captain's office. The DSD is in operation Thursday through Sunday. These assignments are available to Department members on swing shift who volunteer for additional hours of overtime.

As of July 18, 1997, all off-duty employment at business establishments where the primary business is to sell alcohol has been prohibited.

Duty Manuals have been updated and Department members have become familiar with these revisions pertaining to secondary employment (pay jobs).

All existing work permits must be renewed according to the Duty Manual policy. Department members will renew their work permits on their annual appraisal due date.

Secondary employers must obtain approval / authorization from the SEU of the Police Department prior to employing any Department members for security or law enforcement related services (i.e. security, patrol, private investigation, surveillance, traffic control, personal / executive protection, etc.).

Further, Department members are prohibited from engaging in employment for any outside employer that has not completed the secondary employer approval process.

## 2. UNIT STAFFING

The Secondary Employment Unit consists of:

- One Lieutenant (Shared with Permits)
- One Sergeant
- One Office Specialist II (OSII)

The planning, staffing and oversight of SEU requires additional assistance to run SEU.

Currently the additional staff assists with the running of SEU.

- One Permit Sergeant (Coordinates 1 day ABC events)
- One Patrol Sergeant (Collateral Duty- Staffs construction road closures)
- One Permit Officer (Coordinates SEU Encampment Cleanups)

### **Lieutenant duties and responsibilities:**

- Manage the Secondary Employment Unit
- See that staffing needs are fulfilled
- Ensure audits and inspections are completed
- Advise upper management on issues of concern
- Resolve issues with Special Event Coordinators
- Complete Management Reports and Program Plans
- Address any issues related to secondary employment of Department members

### **Sergeant duties and responsibilities:**

- Conduct secondary employer work site inspections.
- Assist Department members and secondary employers with job-related issues and problems as necessary.
- Attend meetings with other City Departments as necessary relative to secondary employment issues.
- Receive the pre-event notice and review last year's files and notes – if applicable.
- Attend the pre-event meetings, typically held at The Office of Cultural Affairs (OCA) and the Parks Use Unit (PRNS).
- Evaluate the promoter's proposal and develop an operations plan considering the following data: Crowd size, location, traffic concerns, alcohol sales, type of entertainment, time of year and past experience.
- Draft an operations plan.
- Develop a cost estimate and deliver the estimate to both the promoter and OCA.
- Contact communications and reserve a radio channel if necessary.
- Assign call signs for officers working the event.
- Prepare and send "special event notices" to the Office of the Chief, Division Captain, Area Commanders and District Sergeants. (Command Staff)

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- Solicit and confirm job assignments with officers and sergeants needed for staffing.
- Make sure each supervisor has a copy of the operations plan. Solicit input and feedback from the event.
- Review the notes made by the supervisor and confirm the actual hours worked. Create a billing invoice and send it to the promoter.
- Collect and distribute the paychecks for the Department members who worked the SEU assignment.
- When there is an error in billing, submit a correction, and resolve the error as soon as possible.
- Enter event information onto the SEU Event log for management report statistics.
- Maintain an event file for all previous year's events. This information will be used primarily for statistical and fiscal analysis. It will also serve as reference material for reoccurring events.
- Provide post billing information to OCA.
- Attend post-event meetings when necessary (when needed, the Police Department can call a meeting to resolve issues for the following year).
- Make presentations to Department membership, private and public organizations relative to secondary employment.

**Office Specialist (OSII)**

- Answer phone calls and emails regarding the hiring of off duty officers for special events/Traffic Control for Road Construction.
- Process paperwork, collect the appropriate fees and issue permits for the hiring of officers (Secondary Employment Permit), street closures/parade permits and one day liquor.
- Collect fees for permit renewal for Secondary Employment when necessary.
- Review incoming SEU application for completion.
- Collect and distribute checks that are mailed to Police Department.
- Assist officers with inquiries regarding SEU Permits and SEU Insurance
- File officer tracking sheets in their personnel files.
- Maintain/update all SEU spreadsheets:
- Obtain SEU numbers for quarterly program management reports (PMRs) for all special events.

**Additional Staff:**

**Permit Sergeant:**

- Conduct monthly random audit of SEU. Checking to ensure Officers working SEU events have updated work permit, SEU insurance, and filling tracking sheets.
- Evaluate the promoter's proposal and develop an operations plan considering the following data: crowd size, location, traffic concerns, alcohol sales, type of entertainment, time of year and past experience.

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- Review the notes made by the supervisor and confirm the actual hours worked. Create a billing invoice and send it to the promoter.
- Collect and distribute the paychecks for the Department members who worked the SEU assignment.
- When there is an error in billing, submit a correction, and resolve the error as soon as possible.
- Enter event information onto the SEU Event Log for management report statistics.
- Solicit and confirm job assignments with officers and sergeants needed for staffing.

**Collateral Patrol Sergeant (Traffic Control SEU)**

- Evaluate the promoter's proposal and develop an operations plan considering the following data: Crowd size, location, traffic concerns, alcohol sales, type of entertainment, time of year and past experience.
- Review the notes made by the supervisor and confirm the actual hours worked. Create a billing invoice and send it to the promoter.
- Collect and distribute the paychecks for the Department members who worked the SEU assignment.
- When there is an error in billing, submit a correction, and resolve the error as soon as possible.
- Enter event information onto the SEU Event log for management report statistics.
- Solicit and confirm job assignments with officers and sergeants needed for staffing.

**Permit Officer**

- Evaluate the promoter's proposal and develop an operations plan considering the following data: Crowd size, location, traffic concerns, alcohol sales, type of entertainment, time of year and past experience, and obtain approval from SEU/ Permit Sergeant.
- Review the notes made by the supervisor and confirm the actual hours worked. Create a billing invoice and send it to the promoter.
- Collect and distribute the paychecks for the Department members who worked the SEU assignment.
- When there is an error in billing, submit a correction, and resolve the error as soon as possible.
- Enter event information onto the SEU Event log for management report statistics.
- Solicit and confirm job assignments with officers and sergeants needed for staffing.
- Conduct random SEU Site inspections monthly (2-4) to ensure employers are compliant with SEU mandates.

### **3. EMPLOYEE WORK PERMITS**

Work permits are required for all police employees, sworn and non-sworn, that desire to engage in all secondary employment.

Secondary employment is defined as any outside employment, whether law enforcement related or not.

Employee work permit applications should be thoroughly completed by the member desiring to work secondary employment. The member may fill the work permit out online inside of E-Resource. The employee's chain of command will electronically approve the work permit.

The application will ultimately be approved by SEU.

Anytime a work permit application is denied, the applicant will be notified via E-Resource.

The work permit application will have an electronic copy of the "San Jose Municipal Code – Gift Ordinance" attached and will need to be reviewed and agreed upon by the employee, prior to submission.

The following would be some examples of reasons or conditions for failing to approve a work permit:

- Secondary Employment Work Permit Supervisor Worksheet is not complete.
- The officer's work permit is not complete.
- The secondary employer has not been approved (for law enforcement related employment).
- The officer has received a recent discipline related to secondary employment misconduct.
- The requested employment is prohibited by Department policy.

### **4. LIABILITY INSURANCE**

In 1997, the California State Legislature amended Section 70 of the California Penal Code to require all Secondary Employers to enter into an indemnity agreement with public entities (law enforcement) as a condition of approving casual or part-time employment of off-duty law enforcement personnel. Law enforcement agencies throughout the State of California are bound by this law change. As a result, the City of San Jose purchased a Law Enforcement Professional Liability Insurance Policy (Policy) offered by an approved insurance company. The Policy provides a combined commercial general liability and professional errors and omissions insurance for the City, police and police reserve officers who work part-time, off duty security and law enforcement related secondary employment positions. Under the Policy, secondary employers are included as additional insured.

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This Policy protects the City, the officers, and secondary employers from liability not only for tort actions based on negligence, but also for intentional torts that are generally excluded from commercial general liability insurance policies. These torts include false arrest, false imprisonment, assault, battery, defamation, and Federal civil rights liability under Title 42 United States Code Section 1983.

The Policy has a limit of \$2 million dollars per occurrence, with a \$100,000 dollar deductible for payment of damages excluding punitive damages. The City of San Jose pays for the deductible.

The Policy covers liability stemming from actions taken by City officers during their secondary employment. Whether taken in the officer's capacity as a private security guard, patrol person, traffic controller, private investigator, body guard, or other security or law enforcement related secondary employment. The Policy applies to officers working in city uniform as well as to officers working in plain clothes and applies whether the officer is working armed or unarmed. Regular and reserve police officers are also covered.

The cost of the premium is paid annually by the City at the beginning of each term. In an agreement with the San Jose Police Officers Association, a Secondary Employment Insurance Premium Payment Plan (Plan) was developed so that officers participating in security and law enforcement related secondary employment reimburse the City for a portion of the cost of the annual premium. Under this plan, each participating officer pays an annual pro rata share of the premium cost in the amount of \$110.00 dollars per year.

In order to work paid jobs, Secondary Employment Officers need to be insured through the Secondary Insurance Liability program. Under this plan, each participating officer pays an annual pro rata share of premium cost in the amount of \$110.00 dollars per year. Payment options for regular officers are either a lump sum payment or a payroll deduction.

- Reserve officers is a lump sum payment paid through SEU.
  - Complete the SEU Insurance application and check the first box. Bring the application to SEU and make their annual payment. Reserve Officer's insurance will expire on the first of February. It is their responsibility to keep their insurance up to date by renewing every year. Record of payment will be saved in their personal file in SEU.
- Full Time Officers:

Complete the Officer Liability Insurance Application, check the second box and email it to The Police Officer's Association, or if they wish to pay the lump sum, perform the same process as Reserve Officers. However, full time officer's annual insurance will expire a year following the date of payment. Once processed, the SEU OSII will save the approved application in the officers file.

Workers Compensation

The determination of whether an employer would have to pay Labor Code § 4850 benefits is a fact-specific inquiry that requires the court to look at an employee's various job duties to determine whether they fall within the scope of active law enforcement. In the case of secondary employment, it would also depend on what the specific duties of that secondary employment were and whether the employee was injured while specifically performing those secondary employment duties (Labor Code §3600.2).

If an officer is a contract employee for the secondary employer, is not receiving a W-2, and he or she is injured while taking law enforcement action during an event/incident that otherwise would have required SJPD to send officers to respond to, the injured officer's claim for workers' compensation benefits might be covered by the City. This will be dependent on the facts of each particular case, which is why, currently, the City reviews these types of secondary employment injuries on a case by case basis in deciding whether to provide benefits.

The provision of a W-2 is not necessarily dispositive of the issue of whether an injured worker is an employee and not an independent contractor for workers' compensation purposes, nor does it determine whether the employer would have to pay Labor Code § 4850 benefits.

**5. SECONDARY EMPLOYER APPLICATIONS**

Before San Jose Police Department off-duty officers can be hired by any public or private secondary employer (related to law enforcement services), the applicant must submit to a review and approval process by the SEU. The applicant completing the Secondary Employer Application (Employer Approval Form) accomplishes this. An authorized representative must sign the Conditions Agreement and the Indemnity Agreement.

An annual processing fee must be paid before the application can be approved. The SEU fee schedule is (as of July 2019):

\$244.00	Annual for businesses
\$ 35.00	Annual for schools and public entities
\$244.00	For events or projects lasting less than five (5) consecutive days

The fee must be paid before the application is approved and checks should be made payable to the City of San Jose.

An application to hire off-duty officers cannot be approved until the completed application form, Conditions Agreement, Indemnity Agreement and all fees have been signed and submitted.

In addition to the above fees, numerous events require additional permitting which is obtained through the Secondary Employment Unit. These additional permits must be obtained a minimum of ten (10) days in advance of the event:

\$211.00	Parade Permit
\$240.00	Street Closure Permit
\$337.00	One Time Alcohol Permit

*Staffing Guidelines:*

The SEU sergeant working closely with event promoters and DOT will evaluate the proper level of police staffing based upon the following criteria:

Historical data of the event

- What were the past staffing needs and issues

Threat Assessment

- Could the event be a target for terrorist type attack
- Is the event likely to result in violence

Expected crowd size and type

- Family event, Children Event, Adult Event
- Musical, Marathon, Public Speaker

Alcohol being served

- Hours being served

Location and Scope of event

- Venue size and type (park, major street(s), downtown)

Time of the event and length

- Hours vs. Days

Traffic conditions

- Traffic Impact
- Public Transit disruption
- Impact on surrounding neighborhood

Dignitary or high profile VIP

The standard staffing for functions and events with a One Time Alcohol Permit is a minimum of two (2) officers. This requirement may be modified or waived on functions with fewer than 200 attendees, provided the event is not open to the public, not selling tickets at the door, nor being held on San Jose City Property.

The SEU/Permits Unit Commander may modify this standard in accordance and best practice of ABC standards.

All outdoor or public Special Events, where alcohol is served, require a minimum of two (2) officers. The Vice Unit and S.E.U. will coordinate off-duty ABC oversight for all events. The Vice Unit, additionally, will issue written conditions for alcohol sales at events with a One Time Alcohol Permit.

The SEU/Permits Unit Commander may modify this standard based upon footprint of event, event activations, prior history of event and other factors deemed important.

## **6. Secondary Employment Unit job criteria**

The Secondary Employment Unit (SEU) employs officers for various law enforcement jobs, also known as pay-jobs. The jobs include traffic control, on-site security, alcohol related enforcement, and school resource officers. Secondary Employment Unit jobs are staffed by SEU or by a current Department member who has been approved by SEU to coordinate and staff a specific job. San Jose Police Officers must complete work permit applications and receive approval through their chain of command prior to working secondary employment.

The SEU sergeant reviews and staffs several hundred events each year. The SEU staff attends numerous meetings in order to understand the concerns and issues associated to each event supported. Considering the issues of some events, it is imperative that SEU staff work these events to ensure the concerns are effectively addressed. The SEU sergeant may staff events directly to place a particular sergeant or officer in a pay-job assignment in order to ensure concerns for the event are addressed. Staffing is based on the following:

1. Sergeant and officer's work experience and skill (Traffic Enforcement, VICE, MERGE, METRO, Canine, etc.)
2. Third party employer request of sergeant or officer
3. Prior job performance from a previous SEU Event
4. Active sworn officers will get priority over reserve officers.

SEU assigned jobs are staffed in various ways.

1. E-Resource:
  - a. E-Resource jobs posted twenty (20) days out: Interested officers prioritize the jobs and E-Resource will contact the officer ten (10) days out. E-Resource will utilize priority and take the number of hours each officer has already worked into account when selecting officers for each event. The selected officers may accept or deny the assignment. The job will be offered to the next officer in line if denied.
  - b. E-Resource jobs posted nine (9) days out: The jobs are filled immediately by interested officers who select them.
2. E-Mail:
  - a. Jobs brought to SEU's attention, with short notice, require an immediate response. SEU employers either ask for more officers at the last minute, or the entire event is contingent upon the willingness of SEU Officers to work the job. The SEU sergeant may email (post) the jobs to a list of permitted officers. The SEU sergeant staffs the job, taking into consideration skills needed for the SEU job, SEU employer request, or first response.
3. Telephone Call:

- a. Last minute events, additional positions requested at the last minute, or positions that need staffing due to late cancellations require an immediate SEU response. The SEU sergeant or officer may call officers they believe have the knowledge, skill, and availability to ensure the event may continue.

SEU approved coordinators work with SEU approved employers to staff events. All SEU officers shall have a work permit application completed and approved through their chain of command prior to working specific events. SEU coordinators may staff these assignments using the following discretionary criteria:

1. The work experience and skill that each sergeant and officer possess (Traffic Enforcement, VICE, MERGE, METRO, Canine, Rank, etc.)
2. SEU employer request of sergeant or officer
3. Prior job performance from a previous SEU event
4. Seniority working for the SEU employer

## **7. Audit Inspections**

Secondary employer job site inspections are an integral part of the management and reporting of authorized and unauthorized secondary employment of Department members. The job site inspection provides the mechanism for a series of checks and balances that keep the secondary employers, the off-duty officers, and the Department accountable to each other. Most importantly, the job site inspections allow the Department to ensure that the secondary employer is in compliance with the City policy and the conditions agreed to by the secondary employer.

In some cases it may not be necessary to conduct a site inspection of a secondary employer; however, this should be considered an exception to the rule. The most common situation in which an inspection may not be necessary is special City sponsored events, parades and festivals where the SEU personnel and/or BFO personnel have been involved in the pre-event meetings and planning stages of a particular event. In all other circumstances site inspections should be done on a regular basis as time allows.

Generally, SEU personnel will conduct two types of inspections, post approval and pre-approval job site inspections. Post approval inspections are completed after secondary employers are granted authorization to employ pay-job officers and the officers and the job are in place.

Permits/ SEU Officer will conduct 2-4 Pre or Post inspections a month.

Pre-approval site inspections will be conducted when needed to ensure that the businesses are in accordance with Department policies or as a condition of the secondary employer approval process.

Inspections should include but not be limited to:

- Current business license
- Proper regulatory permits
- Other required licenses or professional certificates
- Employer logs of officer work hours
- Consistency of job with description on work permit and employer approval form
- Officers at site have current / authorized work permits on file

Occasionally, based on circumstances of the nature or environment of the business, it may be appropriate to conduct a criminal history check (as allowed by law) on the owner of the business to ensure that the officers are not working for an individual with a felony or certain misdemeanor convictions.

Post-approval job site inspection will be routinely conducted by SEU. The primary purpose of these inspections is to ensure that the employer and officer(s) are in compliance with law and Department policy.

#### Pre- Approval Inspections

In some cases, it may be necessary to conduct an inspection prior to employer approval. Some examples of when this would occur are:

- When the primary business of the secondary employer might be the sales of alcohol (bars, nightclubs, cafes, and restaurants).
- When the business may be the site of chronic criminal activity (i.e. gang activity, drug trafficking, gambling, etc.). In such case, the Vice / Intelligence Unit should be contacted and requested to perform a premise and background check.
- Any business where the presence of an off-duty, plain clothes or uniformed police officer could be perceived as a conflict of interest or incompatible with the officer's primary employment.

#### Post-Approval Inspections

In most cases, these inspections are conducted after both the Department member and secondary employer has been approved. Compliance with all appropriate Codes, Ordinances and Duty Manual are the objectives of the SEU.

Observed infractions of Department Policy can be addressed immediately with the secondary employer and the pay-job officer. Additionally, this reinforces to the officer, that he or she is accountable for Secondary Employment Policy and Procedures.

## 8. AUDIT PROCEDURES

### **Background:**

In July of 2016, the City Auditor's office conducted an audit of Secondary Employment Unit records. The City Auditor's Office made reference to the Audit Report and Recommendation dated 3/7/2012:

1. Recommendation #1 was for the Police Department to develop and implement a written procedure for periodic review of off-duty employment timecards including comparisons of:
  - a. City timecards to off-duty timecards
  - b. Timecards for multiple off-duty jobs to each other to test for fraud
  - c. Hours taken for admin/disability/sick leave to hours worked off-duty
  - d. Hold supervisors accountable to off-duty and on-duty timekeeping
  
2. Recommendation #2 indicated that the Police Department should enforce rules from the Duty Manual including:
  - a. Reporting of secondary employment hours
  - b. CAD log-on from off-duty jobs
  - c. Approvals for city vehicles and equipment
  - d. Prohibitions against working secondary employment while on disability, sick or administrative leave
  - e. Ensure approved pay rates were being followed
  
3. The Audit also indicated the Department should inform employees that failure to comply could result in the suspension or revocation of an employee's secondary employment permit.

It was determined a procedure be developed and followed to conduct random SEU file audits of Department members, both current and reserve, who work secondary employment.

### **Procedure:**

The purpose is to identify problems or potential problems and take corrective steps to ensure current Department members and reserve officers comply with the San Jose Police Department Duty Manual.

Effective May, 2017:

- The Permits Unit sergeant shall randomly select officers, monthly, from data bases maintained by the Department.
- The Permits Unit sergeant shall review the SEU files of officers selected for accuracy and completeness.
- The Permits Unit sergeant shall contact the Police Department's Timekeeper to obtain the selected employees' Department timecards.

- The Permits Unit sergeant shall review the selected Police Department employees' timecards and tracking sheets to ensure they are in compliance with Department policies and procedures.
- The SEU sergeant may also examine employer files and conduct random site visits as part of the audit/inspection process.
- The results of the audit/inspection shall be reviewed by the SEU commander. Follow-up on potential misconduct will be consistent with guidelines set in the Duty Manual.

All Department records examined shall be retained in the SEU Group Drive consistent with SEU retention guidelines. A soft folder titled "SEU," with administrative privileges granted to the SEU sergeant, Permits sergeant, and SEU/Permits commander, has been created for this purpose.

## **9. POLICY INFRACTIONS – INVESTIGATIVE RESPONSIBILITY**

Secondary employment policy infractions may come to the attention of the SEU in many different ways (i.e. anonymous tip, citizen complaint, during routine inspections, etc.). In each and every case, responsibility for the investigation will be assigned to the appropriate Bureau, as per established Department policy.

However, prior to the case being assigned out, a preliminary investigation will be conducted by an SEU sergeant to:

- Determine if a violation of policy has in fact occurred.
- Contact and collect from the member's secondary employer, any business records, statements and other relevant evidence that supports the violation of policy.

The SEU sergeant will prepare a written report to the Chief of Police documenting the investigative steps taken, evidence supporting the policy violation, and any other relevant information. The Chief of Police will then forward and assign the final responsibility for the investigation to the Department member's Unit Commander or to Internal Affairs.

## **10. PLAIN CLOTHES ASSIGNMENTS**

Effective January 1, 1997, Section 7582.2 of the Business and Professions Code was amended (SB 1375), to require all active duty peace officers who work off-duty as armed private investigators or armed security guards to be licensed or registered with the Bureau of Security and Investigative Services (BSIS).

In conjunction with this law, the Chief of Police has established a policy which puts into place more stringent requirements than existing State law. Therefore, officers working in compliance with 7582.2 B&P and its related sections, may not necessarily be in compliance with SJPD Policy.

The SJPD Secondary Employment Policy for uniform and plain clothes armed / unarmed law enforcement related employment is as follows:

**Uniformed security or law enforcement related employment** is permissible when the officer has completed the following (no Guard Card or Firearms Permit Registration is required):

- An approved work permit must be on file
- Enrolled in the Law Enforcement Liability Policy Program
- Engaged in employment with an approved secondary employer

**Plain Clothes armed / unarmed security or law enforcement related employment** is permissible when the officer possesses a Private Investigators license, Private Patrol Operator's License, or a Private security Guard Card issued by the State of California Department of Consumer Affairs, Division of Licensing, Bureau of Security and Investigative Services.

If the employment requires the officer be armed, a permit for Exposed Firearm is also required.

The San Jose Police Department Secondary Employment Policy for Uniform and Plain Clothes armed / unarmed Law enforcement related employment is as follows:

Plain clothes armed / unarmed security for law enforcement related employment is permissible when the officer has a Guard Card and Firearms Permit (when armed) and:

- Possesses an approved work permit.
- Joined the Law Enforcement Liability Insurance Policy Program.
- Engaged in employment with an approved secondary employer.

Officers are reminded to review SJPD Duty Manual Section C 1528.

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

- 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 DM Section C 1544).
- Officers are prohibited from accessing any Department databases while working a plain clothes secondary employment assignment (see DM 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 1099 Tax Form.

- Guard Card – Firearm Permit Application Procedure

Officer must complete and submit the following:

- Application for Guard Card - Security Guard or Patrol person
- Application for Firearm Permit – Firearms Qualification Applicant
- Fingerprinting at Livescan

Officers must provide SEU with copies of all certificates / licenses issued relating to Secondary Employment.

Links for Guard Card Inquires:

<https://www.bsis.ca.gov/industries/guard.shtml>

[https://www.bsis.ca.gov/about\\_us/laws/pssact.shtml](https://www.bsis.ca.gov/about_us/laws/pssact.shtml)

[https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=IEEA53280D48B11DEBC02831C6D6C108E&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=IEEA53280D48B11DEBC02831C6D6C108E&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))

## **11. RECORDS RETENTION GUIDELINE**

SEU records are retained consistent with the Department’s Record Retention Schedule dated June 20, 2002. This schedule authorizes the destruction of certain specific records after the stated retention period. This authorization is pursuant to Government Code Section 34090 and City Council Resolution #68648.

SEU records will be retained for the following time periods:

Tracking Sheets: Filed in Officer’s SEU file. Retained for two (2) years.

Employee Work Permits (hard copy): Filed in Officer’s SEU file. Retained for two (2) years plus current.

Employee Work Permits (computer): Retained for two (2) years.

Employer Work Permits: Retained for two (2) years.

## **12. ABC One Day Liquor Permit Process**

The sale of alcohol for any special events will be by permit only. In order to obtain a One-Day Liquor Permit from the Department of Alcohol Beverage Control, the organizer will need to submit paperwork to the Police Department for The Special ABC License Conditions no later than 30 days from the event date. The paperwork includes:

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- The Secondary Employment Application for the hiring of off duty officers. For any special events taking in the public space, off duty officers are required for security through the Secondary Employment Unit.
  - **FOR EVENTS ON PRIVATE PROPERTY** - security is mandated, off duty officers are optional. The organizer can hire security guards from a licensed company if they wish. However, the VICE unit will clearly state what form of security is required.
- The appropriate ABC form. (Some events may require more than one ABC form. Organizers can refer to the ABC website to ensure the correct licensing form(s) is being submitted: <https://www.abc.ca.gov/licensing/license-forms/>)
- The Temporary Beer and Wine Application provided by the Police Department.
- A site map/diagram illustrating all alcohol booths and dispensing points (if event is taking place outdoors).

The SEU OSII will be the first to receive the forms from the organizer to ensure everything is submitted and complete. Once the OSII review is complete, the forms will be reviewed by the VICE Unit. VICE will review and generate The Special Temporary ABC License Conditions for the event (The VICE Unit also has the authority to deny the paperwork at any time during their review).

The San Jose Police Department will require a minimum of one (1) person with LEAD, TIPS, TEAM, or any Responsible Beverage Service training to be present and responsible for the alcoholic beverage services per event booth during the entire time the booth is open. This person should have their certification card available for presentation, if requested, and is responsible for the training and supervision of all persons, selling, serving or pouring alcoholic beverages during the outdoor special event. As the Organizer of an outdoor special event, the organization is responsible for ensuring the training requirement is met for each individual server and providing written documentation that a server training was provided.

The San Jose Police Department reserves the right to expand or reduce this staffing requirement for any event.

To ensure the ability to obtain a minimum of one (1) person with certified training within the organization per expected booth, the organization should contact the Office of Cultural Affairs for a list of organizations that provide trainings throughout the year.

In addition to the above requirement to ensure only trained staff is serving alcohol during the event, additional typical standards to expect for alcohol service during an outdoor special event includes the following and may be specifically modified by the San Jose Police Department:

1. Persons who serve or sell alcoholic beverages shall be twenty-one (21) years of age.
2. Events will be required to visually identify persons who can legally purchase alcoholic beverages with an observable, distinctive hand stamp or a wristband.
3. All persons while working inside the alcohol booths may not consume alcohol in or around the booth until their shift is completed.

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4. No person under the age of 21 years is served.
5. No person is served who appears to be intoxicated.
6. Alcoholic beverage servers are prohibited from consuming alcohol while working.
7. Prohibit booth participants from bringing in alcohol except for cooking purposes.
8. Alcohol is consumed only with designated areas and may not be carried out of the event area.
9. Alcohol is limited to beer and wine only. The following alcoholic beverages are not permitted to be sold during the event: Alcopops Mike's Hard Lemonade, fortified wines, and agave-based wines.
10. No cans or bottles of alcohol are brought into the designated event area by attendees or the public. To enforce this rule, the Organizer must provide adequate licensed private security, as determined by the Police Department.
11. No more than two (2) alcoholic beverages may be sold per customer, per sale.
12. Alcohol is served in clear flexible (soft) number 1 plastic cups only. (Police staff may make an exemption to this policy in advance for unique circumstances such as wine tastings with a commemorative glass).
13. If alcohol is not being served, cans of soda may be distributed; glass may only be used under circumstances with catered event staff where organizer can quickly clean up any broken glass to prevent safety concerns.
14. Beer or wine will only be poured upon order and will not be stacked waiting for orders.
15. There will be at least one (1) private security guard located at each booth where alcoholic beverages are served.
16. No cans or bottles of alcohol are brought into the designated event area by attendees.
17. Hours of sale will be determined by the Police Department. In general the service of alcoholic beverages will cease no later than one-half hour prior to the event (or stage) closing time and all ticket sales will cease one (1) hour prior to the event (or stage) closing time.
18. Commencement of alcohol service/sales shall not begin prior to start time of the event.
19. Police may close alcohol sales at any time if they determine that controls are not being adhered to or in the interest of public safety.
20. Upon demand of any peace officer, licensee shall immediately surrender the license and cease all sales of alcoholic beverages.
21. Supervision of the distribution, sales and operation of alcoholic beverage concession area(s) shall at all time be under the control of the licensed organization. No other person or entity shall have authority to sell, pour, or distribute alcoholic beverages.
22. All monies generated from the sale of alcoholic beverages derived from the exercise of the license shall be directed to the temporary licensee only.
23. A copy of the City of San Jose Special Temporary ABC License Conditions and the Department of Alcoholic Beverage Control License Conditions will be maintained and posted at every beer/wine booth during the event. (24046 B&P Code)
24. Applicant must follow all times and conditions of the Authorization Letter provided by the Office of Cultural Affairs.

Once the conditions are completed, The SEU OSII will have the organizer review and sign the conditions and pay appropriate fees at the police department. The Organizer will then take the Approved One Day Liquor Application and the Special Temporary ABC

License Conditions document issued by the San Jose Police Department to the State of California ABC Office and receive their permit.

### 13. SEU Homeless Encampment Procedures

SEU can be contacted by various city agencies and companies, to hire officers, for security of personnel conducting encampment postings and environmental clean ups. A minimum of 14 days' notice from the projected work date is required. SEU will post the request for officers and schedule officers. Once hired(scheduled), officers will provide security for these assignments only after agencies or companies put up the required minimum 72-hour postings, that a cleanup will occur.

Once hired(scheduled), officers will provide security for these assignments for agencies or companies at the location(s) to conduct a clean-up.

If the assignment is paid by Vis-Code, they will enter that code for those hours on their timesheet. They will also put in the note section of their timesheet the following:

- City Department requesting the cleanup
- Specific person making the request
- Location of the cleanup
- Contact person on site.

Any SEU officers are there to ensure the protection of the any agents of city agencies or companies and to enforce criminal law. They are not there to enforce non-criminal matters.

### SEU Parks and Recreation Neighborhood Services (PRNS) Joint Patrol Procedures

SEU is contacted by a supervising Park Ranger, to hire officers, to assist rangers in their enforcement duties in encampment areas. A minimum of 14 days' notice from the projected work date is required. SEU will post the request for officers and schedule officers. Once hired(scheduled), officers will provide security of site and for park rangers while they perform their duties. Officers may also have to book any illegal weapons, drugs or prescription medication.

If the assignment is paid by Vis-Code, they will enter that code for those hours on their timesheet. They will also put in the note section of their timesheet the following:

- City Department requesting the cleanup
- Specific person making the request
- Location of the cleanup
- Contact person on site.

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Any SEU officers are there to ensure the protection of the Park Rangers and to enforce criminal law. They are not there to enforce non-criminal matters

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Office of the Chief  
Secondary Employment Unit