

	DEPARTMENT OF PUBLIC SAFETY	EFFECTIVE DATE: April 20, 2018	POLICY NO.: LAW.03.02
	LAW ENFORCEMENT ADMINISTRATION POLICY AND PROCEDURES	SUPERSEDES (Policy No. & Date): LAW.03.02 (EFFECTIVE 10/4/2004 & PRIORS) AND SD.03.02 (EFFECTIVE 5/18/1997)	
	SUBJECT: SPECIAL DUTY EMPLOYMENT AND VOLUNTARY SERVICE		Page 1 of 11
CALEA STANDARD(S): 22.2.5			

1.0 PURPOSE

This policy establishes guidelines governing the special duty employment and voluntary service of all deputy sheriffs.

2.0 POLICY

The Department may grant deputy sheriffs the opportunity to engage in special off-duty employment and voluntary service, which shall be subject to the guidelines set forth in this policy. All special duty employment and voluntary service is subject to the review, approval, suspension, and revocation by the Department.

All Deputy Sheriffs recognize and acknowledge that their primary employment is with the Department of Public Safety and that any acceptance of special duty employment or voluntary service shall not interfere with their primary employment. All Deputy Sheriffs shall comply with all Department policies, directives, rules, and standards of conduct, and other State requirements, while engaged in special duty employment or voluntary service.

Special Duty Employment and Voluntary Service shall not be confused with Outside Employment as defined in ADM.03.07 and LAW.03.01 (to be rescinded with the implementation of the amendments to ADM.03.07). There shall only be a departmental policy, therefore SD.03.02 will be rescinded the effective date of this policy.

3.0 REFERENCES, FORMS, AND DEFINITIONS

.1 References and Forms

- a. Act 75, Session Law of Hawaii, Regular Session of 2017.
- b. Hawaii Administrative Rules for the Department of Public Safety § 23-1-5, Director's Authority.
- c. Hawaii Revised Statutes (HRS) § 353C-2, Director of Public Safety, Powers and Duties.

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- d. HRS § 353C-4, Appointment of Employees with Police Powers and Other Employees.
- e. HRS § 607-8, Director of Public Safety, Powers and Duties.
- f. PSD Form 304: Special Duty Invoice for Private Vendors.

.2 Definitions

- a. Authorized Special Duty Employment & Voluntary Service: Special duty employment or voluntary service that is approved by the Sheriff, or his/her designee primarily the Special Duty Coordinator, prior to its performance.
- b. Department: Department of Public Safety, State of Hawaii.
- c. Deputy Sheriff: Department deputy sheriff who receives an appointment to a position in which he/she is granted police authority under HRS § 353C-4.
- d. Duty Hours or Schedule: Regular hours of work and days off as assigned.
- e. Outside Employer: Person, company, or organization, other than the Department, who employs deputy sheriffs for specific services. An outside employer may be a private vendor or another State department or agency. A private vendor is an employer who is NOT a State department or agency.
- f. Special Duty Coordinator (SDC): The deputy sheriff assigned by the Sheriff and tasked with job site evaluations, assigning, monitoring, coordinating, and approving special duty requests by outside employers. Each island (one for Oahu and one for each neighbor island section) may have a SDC designated by the Sheriff.
- g. Special Duty Employment: The performance of a service for a person, organization, corporation, or governmental entity other than the Department of Public Safety, by a deputy sheriff acting in a law enforcement capacity, in return for which the deputy sheriff receives direct or indirect payment or compensation of some kind during non-assigned hours of duty (approved off-duty status). Such service is predicated on the actual or potential use of law enforcement authority or police powers as an extension of law enforcement services performed. The deputy sheriff receives payment directly from the outside employer as described in Section 4.7.

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- h. Voluntary Service: A service provided by an off-duty deputy sheriff acting in a law enforcement capacity during non-assigned hours of duty. Such service is predicated on actual or potential use of law enforcement authority or police powers as an extension of law enforcement services performed. The deputy sheriff receives no direct or indirect payment or compensation of any kind, including payments for the benefit of another person.
- i. Unauthorized special duty employment or voluntary service: A special duty employment or voluntary service that is:
 - 1. solicited, coordinated, accepted, or performed by a deputy sheriff without the prior approval of a request by the Sheriff or his designee, the SDC;
 - 2. obtained by deputy sheriff without following proper procedure; or
 - 3. obtained by a deputy sheriff through any favoritism, deception or coercive means.

4.0 RULES AND PROCEDURES

In accordance with HRS § 353C-2, the Director oversees law enforcement officers including special duty employment and voluntary service.

.1 Special Duty Employment Eligibility

- a. The Department shall review and may approve or may prohibit all special duty employment where there is:
 - 1. An actual or potential conflict of interest between the Department and the outside employer; or
 - 2. A threat to the status or dignity of, or possible disrepute to, the Department and law enforcement as a professional.
- b. Special duty employment shall be available upon request to deputy sheriffs, who have completed six (6) months of service following the completion of basic recruit training.
- c. Deputy Sheriffs who are on sick leave, injured leave, military leave, leave without pay, leave pending investigation, limited duty status, restriction of police authority (ROPA), or suspension or discipline are not eligible for special duty employment or voluntary service.

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- d. Deputy Sheriffs who are on approved vacation are not eligible to work special duty employment for another State department or agency during the same or partial hours, of their regular scheduled shift. Deputy Sheriffs are, however, eligible to work special duty for another State department or agency before or after their approved vacation hours during their regular assigned shift on a given day. Deputy Sheriffs on vacation are only eligible to work special duty for a private vendor.
- e. The Divisional Commanders (the Sheriff or Training & Staff Development Administrator based on assignment), at their sole discretion, may authorize a deputy sheriff compensatory time off (CTO) to work special duty employment for a private vendor, only if operations allow, provided that such a request for CTO is made in writing and approved forty-eight (48) hours in advance of the special duty or voluntary service.

.2 Request for Special Duty Employment and Scheduling

- a. The Sheriff is responsible for review, approval, suspension and revocation of all special duty employment, but may delegate these task to the SDC as described below.
- b. The special duty employment and voluntary service program shall be supervised by a deputy sheriff, who is assigned and tasked by the Sheriff as the SDC. The SDC shall serve as the designated point of coordination for special duty employment. Each neighbor island section may have a SDC designated by the Sheriff.
 - 1. The SDC shall receive and review all requests for special duty employment from outside employers.
 - 2. The SDC is responsible to assess job site evaluations, assign, monitor, coordinate, and approve special duty requests by outside employers and voluntary service requests.
 - 3. The SDC is responsible for scheduling all special duty employment based on qualifications, availability and this policy.
 - 4. The SDC shall make every reasonable effort to ensure that special duty employment assignments are rotated and distributed equally and maintain a record of assignment that is available for review by the Sheriff.

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5. The SDC shall ensure compliance with this policy and all laws, Department policies, directives, rules, standards of conduct, or other State requirements.
- c. Special duty employment assignments are non-transferrable between deputy sheriffs. The approval of the Sheriff or SDC is necessary to facilitate and approve any change in a previously approved special duty assignment.

.3 Duties and Responsibilities

- a. All Deputy Sheriffs shall comply with the law, all Department policies, directives, rules, standards of conduct or other State requirements, while engaged in special duty employment or voluntary service.
 - b. All Deputy Sheriffs engaged in special duty employment and voluntary service shall be subject to the laws, all Department policies, directives, rules, standards of conduct, or other State requirements, to the same extent as on-duty deputy sheriffs. In addition, all Deputy Sheriffs shall abide by safety and other requirements imposed by the outside employer.
 - c. All Deputy Sheriffs engaged in special duty employment or voluntary service shall wear Department issued Class A Uniform, and must comply with the uniform policy requirements, unless granted an exception by the Sheriff.
 - d. Any Deputy Sheriff who neglects his/her duties or whose job efficiency is impaired by any special duty assignment(s) shall not be granted further special duty assignments and may be subject to an administrative action that may result in discipline.
 - e. All Deputy Sheriffs shall ensure that any special duty employment does not conflict with his/her duty hours or schedule and overlap with any other special duty employment.
1. All Deputy Sheriffs are prohibited from engaging in any special duty employment within 24 hours before or after calling in sick to his/her scheduled employment. Any violation of this requirement shall be subject to:
 - a) Suspension from special duty employment;
 - b) An administrative action that may result in discipline;
 - c) Unless, the procedures in Section 4.5 for rescheduling with the SDC has been properly completed.

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2. Section Commanders and Administrators shall immediately notify the SDC or the Sheriff, if there is a concern that a special duty employment is conflicting with the deputy sheriff's duty hours and schedule. If such an unauthorized conflict exists, the deputy sheriff may be subject to:
 - a) Suspension from the special duty employment; and
 - b) An administrative action that may result in discipline.

- f. All Deputy Sheriffs shall take appropriate law enforcement action related to any incidents occurring at the site of the special duty employment, including any emergency calls.
 1. Arrests made by Deputy Sheriffs engaged in special duty employment shall be made in accordance with laws, Department policies, rules, directives, and standards of conduct.
 2. Where immediate action is not required, Deputy Sheriffs engaged in special duty employment may call for on-duty law enforcement assistance (state or local) and shall take command of the situation until relieved by on-duty law enforcement.
 3. All Deputy Sheriffs engaged in special duty employment shall assist and complete follow up reports, if needed.

- g. A vendor's request for a particular deputy sheriff may be honored only when his/her previous special duty assignments do not exceed the general average of those on the eligible list to ensure equitable distribution.

.4 Reporting for Duty

- a. All Deputy Sheriffs engaged in special duty employment shall report to their special duty assignment at the time and place assigned with all necessary uniform and equipment required to perform the assignment.
- b. All Deputy Sheriffs shall not use state vehicles (including State assigned vehicles) or another type of State equipment, other than the authorized uniform accessories and issued firearm, in special duty employment or voluntary service, unless such use is specifically authorized in advance by the Sheriff.
- c. Private vendors shall provide any vehicles or other equipment required for the assignment at their expense.

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.5 Excused Cancellation

- a. All Deputy Sheriffs who are unable to report for his/her special duty employment assignment shall notify the SDC as soon as practicable, which is no later than three (3) working days prior to the assignment.
- b. In the event of a cancellation, the SDC shall assign a replacement based on qualifications and availability.
- c. Cancellations submitted less than three (3) working days prior to the assignment may be excused by the Sheriff or the SDC for the following reasons:
 1. Illness or injury;
 2. Emergency (personal or family);
 3. Court appearances; or
 4. Other on-duty requirements.
- d. In the event that a Deputy Sheriff becomes suddenly incapacitated or unable to fulfill his assigned special duty assignment, he/she shall be responsible for immediately notifying the SDC and provide the name of the replacement.
- e. The Deputy Sheriff shall make every attempt to find a replacement and provide the name to the SDC, when he/she provides the notification required by "d" above.
- f. If the Deputy Sheriff is physically unable to find a substitute, the SDC will make reasonable attempts to schedule another deputy sheriff for duty as soon as possible.

.6 Suspension/Discipline from Special Duty Employment

- a. A Deputy Sheriff, who fails to report for a special duty employment assignment without proper notification to the SDC shall not be granted further special duty assignments until a written report detailing his/her failure to report for the assignment is submitted to the Sheriff through the SDC and the Sheriff has determined the absence qualifies to be excused by the Sheriff.
- b. If the absence is not excused by the Sheriff, the Deputy Sheriff who fails to report for duty at the time and place assigned, leave his/her assignment without

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authorization, or violates any law, Department directive, rule or standard of conduct, while engaged in special duty employment may be subject to an administrative action that may result in discipline and suspension from the special duty employment program.

- c. Any Deputy Sheriff accepting and performing a special duty assignment for any personal gain and/or without proper authorization shall be subject to an administrative action that may result in discipline, suspension from the special duty employment program, and a referral to the State Ethics Commission for a violation of State Ethics rules.

.7 Special Duty Employment Compensation

- a. Compensation for special duty employment by State and private vendors shall be for only the actual hours spent performing the special duty employment.
- b. Compensation for private vendors shall be at a fixed hourly rate, multiplied by the number of hours worked or fraction thereof computed to the nearest fifteen (15) minutes, as set forth below:

Deputy Sheriff II	\$30.00 per hour
Deputy Sheriff III	\$35.00 per hour
Deputy Sheriff IV	\$40.00 per hour

- c. The private vendor will pay the deputy sheriff directly for special duty work performed based on the actual hours spent performing the special duty employment, therefore the padding or payment for unearned hours is prohibited. The Department is not responsible for unpaid wages or taxes. The Department will not perform as the "collector" for the deputy sheriff and shall not be involved in disputes between the deputy sheriff and the private vendor.
- d. Compensation for evictions, as requested by private vendors for execution of court-ordered Writ of Ejection or Possessions, shall be at a fixed hourly rate, multiplied by the number of hours worked or fraction thereof computed to the nearest fifteen (15) minutes, as set forth below with advance agreement by the private vendor/party requesting the service:

Deputy Sheriff II	\$55.00 per hour
Deputy Sheriff III	\$60.00 per hour
Deputy Sheriff IV	\$65.00 per hour

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- e. The private vendor will pay the deputy sheriff directly for special duty work performed based on the actual hours spent performing the special duty employment, therefore the padding or payment for unearned hours is prohibited. The Department is not responsible for unpaid wages or taxes. The Department will not perform as the “collector” for the deputy sheriff and shall not be involved in disputes between the deputy sheriff and the private vendor.
- f. Compensation for special duty employment by State agencies shall be based on the individual deputy sheriff’s overtime hourly rate of pay (which is one and a half times the deputy sheriff’s hourly rate). Deputy sheriffs may receive such payment for special duty work performed in excess of eight (8) hours per day and forty (40) hours per week, based on the actual hours spent performing the special duty employment, therefore the padding or payment for unearned hours is prohibited.
 - 1. The state department or agency requesting the special duty services shall provide payment by:
 - a) Journal Voucher reimbursement to the Sheriff Division, or
 - b) Check payable to the Department of Public Safety.
 - 2. The original State Form D55 will be processed by the Department of Public Safety to the individual Deputy Sheriff, who performed the special duty work.
- g. Deputy Sheriffs are responsible for the collection and documentation of compensation, including the proper reporting to the Internal Revenue Service and the State Department of Taxation or other taxing authority.
- h. All Deputy Sheriffs who perform special duty employment for private vendors shall complete PSD Form 304: Special Duty Employment Invoice and submit the completed form to the private vendor and a copy to the SDC. The private vendor will remit payment for special duty employment directly to the individual Deputy Sheriff.
- i. All Deputy Sheriffs who perform special duty employment for a State department or agency shall submit his/her State Individual Time Sheet or Form D55 by the end of the pay period in which such special duty employment was performed. Deputy Sheriffs who fail to meet this requirement may be subject to an administrative action that may result in discipline and suspension from the special duty employment program.

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.8 Special Duty Employment - Prohibited

- a. The Department and the Deputy Sheriff shall ensure that any special duty employment does not involve:
 1. Use of law enforcement status to initiate or influence any private, business or political transaction;
 2. Use of law enforcement authority or police powers, including security work for a private entity, which may require personnel to access Department information, files, databases, records, or services;
 3. Assignments to work in any capacity or assist as an usher, doorkeeper, ticket-taker or ticket-seller in any theater, bouncer, dance place, or like establishments;
 4. Use of state vehicles or equipment;
 5. Collection of money or property for private, business or political purposes;
 6. Law enforcement services at an establishment whose principal business involves alcoholic beverages;
 7. Any outside employer connected with or related to medical marijuana or dispensaries;
 8. Use of law enforcement personnel's name in any type of advertising or endorsement; or
 9. Illegal activity.
- b. All Deputy Sheriffs shall not solicit jobs from potential vendors.
- c. All Deputy Sheriffs shall not work more than sixteen (16) hours of combined Department and special duty employment within any twenty-four (24) hour period.

.9 Voluntary Service

- a. All Deputy Sheriffs may engage in voluntary service only upon written approval by the Sheriff.

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- b. The Sheriff is responsible for review, approval, suspension and revocation of all voluntary service.
- c. Requests for voluntary service shall be submitted in writing by the deputy sheriff through the SDC to the Sheriff at least seven (7) days before the date of service. Exceptions to this seven (7) day advance written request may be waived by the Sheriff, based upon the facts and circumstances presented.
- d. The deputy sheriff shall submit a written request that includes the name of the organization requesting the service, the location, date and time of the activity, the nature of the activity, and the number of people expected to attend.
- e. All Deputy Sheriffs approved for voluntary service shall not accept any direct or indirect payment, preferential treatment, favors, or compensation of any kind for his/her service for the benefit of others.

5.0 SCOPE

This policy shall apply to all Deputy Sheriffs, who receive an appointment to a position in which they are granted authority to exercise police powers under HRS § 353C-4.

APPROVAL RECOMMENDED:



Deputy Director for Law Enforcement 4/20/18
Date

APPROVED:



DIRECTOR 4/20/18
Date

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DEPARTMENT OF PUBLIC SAFETY
SHERIFFS DIVISION

SPECIAL DUTY INVOICE FOR PRIVATE VENDORS

PERSONAL INFORMATION FOR DEPUTY SHERIFF

Name: _____

Address: _____

Phone Contact: _____

SSN: _____

CONTRACTOR / VENDOR INFORMATION

Contractor: _____

Date of Special Duty Performed: _____

Location of Job: _____

Hours of Work Performed: START TIME: _____

END TIME: _____

Total Hours of Work Performed (to the nearest 15 minutes): _____

Hourly Rate: \$ _____

TOTAL: \$ _____

DEPUTY SHERIFF'S SIGNATURE: _____

Date: _____

PAYMENT DUE WITHIN FIVE DAYS OF RECEIPT

PLEASE MAKE PAYMENT DIRECTLY TO DEPUTY SHERIFF SPECIFIED ABOVE.