

REVISED - September 19, 2024

Revisions made to Attachment 1
and Attachment 2



Item No. 7.1

Board of Police Commissioners for the Halifax Regional Municipality

August 7, 2024

September 4, 2024

October 2, 2024

TO: Chair Kent and Members of the Board of Police Commissioners for the Halifax Regional Municipality

SUBMITTED BY: Original Signed

Cathie O'Toole, Chief Administrative Officer

DATE: July 18, 2024

SUBJECT: **Off Duty and Extra Duty Employment Policy**

ORIGIN

August 2, 2023 meeting of the Board of Police Commissioners, Item 7.1

MOVED by Commissioner Critchley, seconded by Commissioner Blackburn

THAT the Board of Police Commissioners (BoPC) direct the Policy Subcommittee to adopt the following as its first two areas of focus::

1. Review the Board of Police Commissioners' policies related to Extra Duty and Off Duty employment, and
2. In consultation with the Chief, draft a Board of Police Commissioners policy related to police response to homelessness for the BoPC's consideration.

MOTION PUT AND PASSED

LEGISLATIVE AUTHORITY

Police Act 2004 section 56 states:

- (1) Every board shall establish a written policy respecting extra-duty employment by members of its

police department and the policy shall

- a) define extra-duty employment;
 - b) provide that requests for a member of the police department to be employed on extra duty be made to the chief officer;
 - c) require that a member of the police department engaged in extra-duty employment be in uniform except where the chief officer determines that plain clothes are required; and
 - d) require that at all times while on extra duty the member of the police department is under the orders of the police department and no one else.
- (2) Every board shall establish a written policy respecting off duty employment by members of its police department and the policy shall
- a) define off-duty employment;
 - b) set policy guidelines regarding permitted and prohibited off-duty employment;
 - c) prohibit a member of the police department from engaging in the business of serving civil process documents or in the private investigator or private guard business; and
 - d) prohibit a member of the police department from being in uniform while engaged in off-duty employment.
- (3) The chief officer shall determine whether employment is extra-duty employment or off-duty employment and whether a particular kind of off-duty employment is permitted or prohibited within the off-duty police policy.

RECOMMENDATION

It is recommended that the Board of Police Commissioners for the Halifax Regional Municipality:

1. Adopt in principle, subject to a period of public comment, the revised extra duty and off duty policies for inclusion in the Board of Police Commissioners' Policy Manual, as outlined in Attachment 1 of this report; and
2. Recommend that Regional Council request the Mayor to write a letter to the Minister of Justice to consider the appointment of trained municipal staff as Special Constables to provide traffic direction at special events.

BACKGROUND

The *Police Act* under s 56 requires every police board to have a written policy with respect to extra duty and off duty employment. The board's current policy, first adopted in March 2020, references HRP's current policy (Department Order #59-99) and states that "this policy, which is updated periodically, should be endorsed by the board".

In response to a request from the board, the HRP publicly released their off duty and extra duty employment policies in October 2022. Those policies are currently under review by the HRP.

While extra duty policing is common among police services across the country, the Nova Scotia Provincial Police Services Agreement stipulates that the RCMP can only provide services to Provincial/Territorial or Municipal governments. Therefore, generally, no third-party agreements or billing is permitted by the RCMP.

This report deals specifically with the extra duty and off duty employment portion of the August 2, 2023 motion. Work related to other policies referred to in that motion is ongoing.

DISCUSSION

HRP's current extra duty policy indicates HRP officers can add their names to a list for extra duty assignments annually. Officers, "wherever possible," are to be on their second or third days off to work extra duty, and there must be a minimum of 6 clear hours between work assignments. Officers off on suspension, injury, or medical leave or who are on modified duties are ineligible for extra work.

Requests for extra duty employment must include the nature of duties, the number of hours required, the name of the group or business, and the method of payment. The policy also states that "[t]he request must be compatible and consistent with the duties of a police officer and the policies or regulations of the Board."

As per the Collective Agreement between HRM and the Halifax Regional Police Association (HRPA), the extra duty rate is set by the HRPA (the Union). On November 1, 2022, the HRPA amended the rate so that it moved from 1.5 times the existing rate to double. The Human Resources Study, received by the board in March 2023, found that both employee earnings and hours for extra duty employment have been increasing. For example, according to the Study, 7,521 hours of extra duty were worked in 2021, compared to 13,726 from January 1 to November 19 of 2022. One of the recommendations of the Study, which the board requested be expedited, is to "[e]xamine the total amount of time worked by employees, including overtime and extra duty to determine if there is a correlation between time worked and sick leaves usage and available staffing resources."

The recommended board policy provides direction to the Chief to amend HRP's existing extra duty employment policy to provide for language in several areas, including the following:

- Criteria to assess request for extra duty deployment to ensure that a police presence is necessary;
- Consideration of the wider public safety needs of the community and the organizational reputation of HRP;
- Training related to the extra duty policy and briefings related to individual assignments;
- Public understanding around the role of extra duty officers policing private entities;
- Ensuring issues and concerns are communicated to the watch commander;
- Consideration of the health, safety and mental and physical wellness of members when determining the appropriate distribution of work assignments; and
- Reporting requirements for the Chief.

The proposed policy is intended to address concerns about the use of police for tasks that may not require such highly trained professionals, public understanding about the role of extra duty officers, and the potential impact of extra duty assignments may have on regular police work.

Traffic direction has formed a significant portion of extra duty assignments in other jurisdictions. HRM staff have requested the Department of Justice to appoint Special Constables for specific events to provide traffic direction. Thus far, this request has been denied. Therefore, staff are recommending that the BoPC request the Mayor to formally make this request to the Minister of Justice. The draft extra duty policy also proposes tracking the number of extra duty assignments related to traffic direction to bolster this request in the future.

When implemented, the refreshed HRP policy should result in an overall reduction in extra duty assignments and greater public confidence in the use of extra duty policing as an effective public safety measure.

With regard to off duty employment, HRP's current policy states that any off duty employment must be authorized by the Chief, and that off duty employment is contingent upon a member being in good standing. The policy lists off duty employment activities that are prohibited.

In addition to language that is required under the *Police Act*, the proposed policy includes language that prohibits the use of HRP property toward off duty employment and outlines reporting requirements for the Chief.

The HRP has been consulted in producing the draft policy and are broadly supportive of the proposed language. Next steps include inviting public comment on the draft policy through the BoPC's website.

FINANCIAL IMPLICATIONS

There are no immediate financial implications to this report. Any future financial implications arising from implementation of the recommendations will be addressed in staff reports and HRM departmental budgets as required.

COMMUNITY ENGAGEMENT

The Board of Police Commissioners is comprised of four citizen members and three Councillors. Meetings are live webcast on Halifax.ca. The agenda, reports, video, and minutes of the Board are posted on Halifax.ca.

ATTACHMENTS

Attachment 1 – Draft Extra Duty Employment Policy
Attachment 2 – Draft Off Duty Employment Policy

A copy of this report can be obtained online at halifax.ca or by contacting the Office of the Municipal Clerk at 902.490.4210.

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The Halifax Board of Police Commissioners is committed to overseeing the delivery of fair, effective, efficient, equitable and accountable policing services in keeping with community values, needs, and expectations of all community members.

Therefore, it is the policy of the Halifax Board of Police Commissioners that:

Definition

1. Extra duty employment shall mean all police-related duty sanctioned by the chief officer other than that normally provided by the Halifax Regional Municipality.

General

2. The chief officer will establish an operational policy with respect to the extra duty employment of HRP's sworn members.

Mission, Vision and Values

3. The chief officer will ensure that HRP's extra duty employment policy aligns with the mission, vision and values, as outlined in HRP's Strategic Plan, and the Principles of Policing, as outlined the Police Board By-law.

Criteria for Extra Duty Policing

4. All requests for extra duty employment shall be made to the chief officer or designate.
5. The chief officer will ensure that a detailed critical assessment is undertaken in consultation with the client to determine whether a sworn police officer is required for any requested extra duty employment assignment.
6. The chief officer will ensure that this assessment includes considerations of the public safety needs of the wider community, reasonable community expectations of the Halifax Regional Police, and maintaining a positive organizational reputation.
7. The chief officer will ensure that whenever possible, requests for extra duty employment are backed by verifiable information and statistics.
8. The chief officer will ensure that members who accept and work an extra duty assignment remain under the exclusive jurisdiction of the HRP.
9. The chief officer will ensure that any issues or concerns arising from an extra duty assignment are communicated to the watch commander.

Member Eligibility

10. All members engaged in extra duty assignments shall be in uniform, except where the chief officer determines that plain clothes are required.
11. The chief officer will ensure that members complete appropriate training related to the extra duty policing policy before being offered extra duty assignments.
12. The chief officer will ensure that extra duty assignments are equally distributed among those whose name is included on the Extra Duty List.
13. The chief officer will ensure there is reasonable time between members' work assignments.
14. The chief officer will consider the health, safety and mental and physical wellness of members when determining the appropriate distribution of work assignments.
15. The chief officer will ensure that a schedule fee be established for the use of special equipment related to extra duty assignments.

Reporting requirements

16. By June 1st, the chief officer will annually report to the board the following information:
 - a. The total number of extra duty assignments requested by outside parties in the previous fiscal year broken down by patrol division;
 - b. The number of extra duty assignments completed in the previous fiscal year broken down by patrol division;
 - c. The total number of extra duty hours worked in the previous fiscal year;
 - d. The total extra duty earnings in the previous fiscal year, including expenditures and net profit;
 - e. The total number of charges laid by members while completing extra duty assignments in the previous fiscal year;
 - f. A client breakdown of extra duty assignments requested and completed, including those related to retail and traffic control;
 - g. Any injuries related to extra duty assignments and the impact on HRP;
 - h. Any correlation between extra duty time worked and available staffing resources; and
 - i. Any other pertinent information.

The Halifax Board of Police Commissioners is committed to overseeing the delivery of fair, effective, efficient, equitable and accountable policing services in keeping with community values, needs, and expectations of all community members.

Therefore, it is the policy of the Halifax Board of Police Commissioners that:

Definition

1. Off duty employment, also known as secondary employment/activities shall mean any activity, business, undertaking or calling in which a member participates while not on duty whether or not it involves financial gain or other benefit or consideration. An extra duty assignment is not considered to be off duty employment.

General

2. The chief officer will establish an operational policy with respect to the off duty employment of HRP's sworn members.

Mission, Vision and Values

3. The chief officer will ensure that HRP's off duty employment policy aligns with the mission, vision and values, as outlined in HRP's Strategic Plan, and the Principles of Policing, as outlined in the Police Board By-law.

Criteria for Off Duty Employment

1. Off duty employment is prohibited unless authorized by the chief officer.
2. The chief officer will prohibit sworn members from being in uniform while engaged in off duty employment.
3. The chief officer will prohibit sworn members from engaging in off duty employment when on duty.
4. The chief officer will prohibit the use of HRP equipment, facilities, materials or any other public property toward off duty employment.
5. The chief officer will ensure that no information obtained as a sworn officer will be used in off duty employment.
6. The chief officer will develop a list of prohibited off duty employment activities, and this list shall include the engagement in the business of serving civil process documents or in the private investigator or private guard business.

7. The chief officer will prohibit sworn members from engaging in off duty employment that creates or is likely to create a conflict of interest with their duties as a peace officer.
8. The chief officer will prohibit sworn members from participating in off duty employment that is obtained as a result of being employed as a member of the HRP.

Member Eligibility

9. The chief officer will ensure that any request for off duty employment is contingent on a member being and continuing to be in good standing.
10. The chief officer will ensure that when applying for permission to engage in off duty employment, the applicant will describe the nature of the work, a statement that no conflict of interest is anticipated, and an estimate of the anticipated number of hours per week that the member will be engaged in off duty employment