

TO: Mayor Althoff and City Council

FROM: Jeffrey L. McCormick, Chief of Police

SUBJECT: Contracted Police Services

DATE: January 29, 2020

BACKGROUND

At the January 21, 2020 City Council meeting the City Council discussed contracted police services and requested that a new policy addressing that be created. The draft policy was created after reviewing the policies from Burnsville, Plymouth and Edina which were cities I was referred to by the City Attorney. Those are larger cities and not all parts transfer to our community, but Lt. Berg and I reviewed all the policies and found the components that provided a best practice approach and created our draft policy and request/agreement form with those ideas in mind. The City Attorney has not been consulted yet, but would be before these are implemented to ensure language meets their standards.

One of the areas discussed was the rate to be charged and that Council wanted to ensure that all costs incurred by the City are covered. The Council felt that a flat rate should be used for ease of administration. I have consulted with HR and Payroll to determine the costs that should be included and while the 2019 rate did cover all the employee cost not all the administrative cost was included. For the 2020 rate, all costs were factored in and the rate rounded to the next whole dollar, that hourly rate would be \$72.00 an hour per officer with a two-hour minimum. For events with more than one officer or lasting more than two hours the City would come out ahead in the administrative charge.

The Council discussion also included a request from the Prairie Island Community to contract with the City for peace officers to boost the law enforcement on site for their summer concerts that I had received. I spoke with Lake City Police Department because they provided officers in 2019 to Prairie Island. They indicated that they did not have any issues connected to the contracted services with Prairie Island and that they billed out at a rate to cover all the wage and benefit costs and the cost of squad cars. The Council discussion and information learned from Lake City was included in the draft policy, so it would already address it, if Council approved that type of contract service in the future. Contracted service requests within the City would be filled before a request from another community would be filled. If we were to consider doing this, I think we would also want to ensure that covering our administrative costs be included in any agreement.

The Council also inquired about insurance requirements for the contracting entity. I consulted with Flom Insurance, our local contact for LMCIT, who contacted LMCIT and received a response from an insurance attorney there. The attorney advised that in contracted police services the City is already fully covered and no additional coverage would be needed. He also advised that the City could require a requesting party to list the City as an additional insured, and while it would provide some minimal additional protection to the city, he did not think it was necessary to require that.

In reviewing the other policies, we identified one area that would be helpful to know how Council wishes to handle as we prepare the final policy. That is interviews or depositions that are typically for insurance civil actions. There was not a clear consensus from the policies reviewed. One city did not address it, the others each took a different approach. The section highlighted contains two options. I did speak with the LELS Steward and he felt the approach taken by Burnsville of addressing it as overtime made the most sense, but suggested the hours be increased to three to match the Court time provisions of the LELS contract.

REQUESTED COUNCIL ACTION

Provide direction to Police Chief and Lieutenant on any changes as we proceed forward in moving the draft policy to a final version before submission to the City Attorney as indicated above and bringing back to the City Council.

DRAFT CFPD POLICY

1-21 SECONDARY EMPLOYMENT

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REGULATION

The nature of law enforcement requires Department employees to have the ability to work irregular schedules which are subject to change in meeting deployment needs. In addition, it is necessary that employees have adequate rest in order to be alert and perform their duties effectively. Emergency Mutual Aid requests for a local, tribal or State government are not considered secondary employment nor subject to this policy. When an employee is engaged in outside employment, there is an increased potential for conflicts of interest with the employee's primary responsibility to the Department, as well as a potential for liability to the City of Cannon Falls. For these reasons, the Department must place limitations on outside employment of Department employees.

The formal written mission described in this section is to provide specific direction to Department members in the performance of their duties.

PURPOSE

To clearly establish Department procedures and regulations for outside employment and prevent actual or perceived conflicts of interest for Departmental employees.

SCOPE

This section is applicable to all members of the Cannon Falls Police Department.

STANDARDS

1-21.01 DEFINITIONS

Contracted Police Services – Overtime or a set rate involving any member of this Department who performs duties or services for an outside organization, company, individual or local/tribal government on behalf of the Department. Such outside contracted overtime shall be requested and scheduled directly through this Department so that the Department will be reimbursed for the full cost of the employee and administration expenses.

Officer Interviews/Depositions –Requests to an officer to be interviewed or deposed in a civil action resulting from an incident the officer responded to.

Outside Employment - The employment of any member of this Department who receives wages, compensation or other consideration of value from another employer, organization or individual not affiliated directly with this Department for services, product(s) or benefits rendered. For purposes of this section, the definition of outside employment includes those employees who are self-employed and not affiliated directly with this Department for services, product(s) or benefits rendered.

Volunteer Activities – Donation of time or talents by any member of this Department to a non-profit organization, including but not limited to schools, places of faith and youth activities.

1-21.02 OUTSIDE EMPLOYMENT

The following procedures shall be followed regarding outside employment of Police Department employees:

All requests for Department employees to perform outside employment will be directed to the Chief of Police or designee and processed through official channels. All outside employment is prohibited unless specifically authorized by the Chief of Police or designee. Previously granted requests for outside employment that would continue into the next year must be resubmitted by each December 31, and will be reconsidered by the Chief of Police. The Chief of Police may revoke or suspend previously approved outside employment, an employee shall stop said outside employment once given written notification of the reasons for revocation or suspension.

All employees are required to provide a written disclosure to the Police Chief or designee prior to engaging in any outside employment for private gain.

EXCEPTIONS

- Making investments or renting an employee's own property to a third party, provided that such investments, rental, or partnerships are not likely to create a conflict of interest with the employee's City employment.
- When engaged in volunteer activities.
- Part-time employees unless their primary job would be in a conflict with section 1-21-02.02 b 1-5. If so, a written explanation of the conflict must be made to the Chief of Police so a determination can be made on a case by case basis on how to proceed.

1-21.02.01 Restrictions Specified

The following conditions shall be considered:

- A. Any outside employment is secondary to City employment and shall not interfere with the proper and safe performance of City employment. Employees should report to work refreshed and ready for work. The total hours for any week shall not exceed 70 hours, including City employment. Exceptions to the limit on hours may be granted at the discretion of the Chief of Police or designee.
- B. In no case shall outside employment be considered where:

1. A labor dispute is involved.
2. Involves the employee's use of Department time, facilities, equipment or supplies, the use of the Department badge, uniform, prestige or influence for private gain or advantage.
3. Involves the employee receiving compensation for outside employment while working on duty.
4. Involves time demands that would render performance of the employee's duties for this Department below minimum standards or would render the employee unavailable for reasonably anticipated overtime assignments and other job-related demands that occur outside regular working hours.
5. The reputation of the Department would suffer as a result of the outside employment of a member of the Department, to include but not limited to Bail Bond Agency, Insurance Investigation and Collection Agencies.
6. The Chief of Police has the authority to deviate from the above for extenuating circumstances. The Chief of Police's decision will be final.

1-21.02.02 Changes in Outside Employment Status

Employees shall also promptly submit in writing to the Chief of Police any material changes in outside employment including any significant change in the number of hours, type of duties or demands of any approved outside employment. If an employee terminates his/her outside employment, the employee should provide written notification of such termination to the Chief of Police, so any future requests decisions are based on accurate status considerations.

1-21.03 CONTRACTED POLICE SERVICES

Contracted Police Services is provided by the City to an outside organization, company, individual or local/tribal government not affiliated directly with the City. An outside organization, company or individual may make application for Contracted Police Services by submitting a completed and signed application and Letter of Agreement for contracted police service. A local/tribal government would initiate a request by contacting the Chief of Police and the City and requesting local/tribal government entering into an agreement for contracted police services, which shall include the cost rates and terms. If such request is approved by the Chief of Police, a sworn peace officer employed by the City shall be assigned. For an outside organization, company or individual the rate charged and paid shall be set annually by the Chief of Police and shall cover all costs the City incurs in providing contracted police services. While performing contracted police services, an employee will at all times be an employee of the Department, and his or her sole responsibility will at all times be to the Department. Any employee who is working in uniform shall at all times conform to the standard of dress set forth in existing orders. However, the Department recognizes that the uniform may not be proper in some circumstances. These exceptions will be evaluated by the Chief of Police or designee. If an officer is not wearing the uniform in this capacity, he/she must carry proper credentials identifying them as a Cannon Falls Officer.

All sworn peace officers are eligible unless on vacation, compensatory time, sick leave, light duty, or injured on duty leave to engage in contracted police services. Employees on vacation, compensatory time, sick leave, light duty, or injured on duty leave must seek the prior written

approval of the Chief of Police to be eligible to engage in contracted police services. In the case of previously approved contracted police services, this provision requires a specific, separate approval for the duration of said leave.

1-21.03.01 Restrictions, Conditions or Limitations Contracted Police Services

While it is not possible to anticipate or list every type of occurrence where contracted police service might be sought, occurrences listed in section 1-21-02.02 b 1-5, would not be considered for contracted police services without specific approval from the City Council. For all other types of requests for contracted police services the Chief of Police may impose any other conditions or limitations on his or her approval that appear necessary in each individual situation, in accordance with the criteria set forth in this policy. Contracted police services rates will be set annually by the Chief of Police and billed directly by the City to the requesting party. Officers will be compensated at a set hourly rate to be determined annually by the Chief of Police.

Contracted Police Services requests that are canceled within twenty-four (24) hours of the event start time, the Client will be charged for all services which were contracted and the officer(s) who were assigned will receive contracted police service pay for all hours contracted.

1-21.03.02 Officers Working Contracted Police Services

An officer engaged in contracted police services within the City of Cannon Falls will, when starting and ending the contracted police services shift will advise an officer on duty.

An officer, while engaged in contracted police services within the City of Cannon Falls, shall at all times take proper action on any offense or condition requiring police action which may come to the officer's attention.

An officer may use Departmental equipment (i.e., squad, etc.) when working a contracted police services activity.

If an officer is injured while assigned to contracted police services, he/she must notify a supervisor as soon as possible. Section 1-5.10.03 will apply.

1-21.04 OFFICER INTERVIEWS/DEPOSITIONS

Officers by the nature of their job respond to incidents where one or more of the persons involved could commence a civil action, against the other persons involved. Such requests are not considered to be outside employment within section 1-21.02 above. Requests to an officer to be interviewed or deposed in a civil action resulting from an incident the officer responded to is not considered Outside Employment. In the cases where an interview/deposition is requested, the officer shall arrange to do so on off-duty time.

The Officer shall be compensated directly from the party at a rate agreed to by the officer and the requesting attorney or insurance representative. OR The officer shall submit an Interview Overtime Pay Voucher, completed and signed by the officer and requesting attorney or insurance representative. An invoice will be mailed to the representative for a minimum of 3

hours at time and one-half pay plus a 20% administrative fee. The officer shall be paid the 3 hours at time and one-half.

1-21.04 VOLUNTEER ACTIVITIES

The Department encourages community engagement and understand that employees may choose to participate in volunteer activities. Volunteer activities are not considered to be outside employment under section 1-21-02, however the restrictions of section 1-21-02.02 b 1-5 would apply. Employees should remember while providing time or talents to any non-profit organization that committing to much time or energy could involve time demands that would render performance of the employee's duties for this Department below minimum standards or would render the employee unavailable for reasonably anticipated overtime assignments and other job-related demands that occur outside regular working hours and should allocate their time commitments accordingly.

**CANNON FALLS POLICE DEPARTMENT
REQUEST APPLICATION /
LETTER OF AGREEMENT CONTRACTED POLICE SERVICE**

The following request application / Letter of Agreement for contacted police service must be completed by any outside organization, company or individual, herein referred to as Client, prior to any utilization of Cannon Falls Police Department peace officers for contracted police services, as required by the City Council.

Name of Organization/Company/Individual: _____

Address: _____
(Street/P.O. Box) (City/Town) (State) (Zip Code)

Phone Number: _____ Contact Person: _____

E-mail: _____

Contracted Police Service location: (if different from above) _____

Date(s) requested _____ Report Time _____ End Time _____

Location(s) officers will be working _____

Number of officer(s) needed _____, if known

Will officer(s) need any special equipment (e.g. reflective vest, first aid kit, flashlight) Yes / No

If so, describe _____

Describe exactly what officer(s) will be doing _____

The above listed **Client** and the **City of Cannon Falls** have an Agreement providing for contracted police services. It is the intent of the Client to retain the City of Cannon Falls for contracted police services. It is the intent of the City of Cannon Falls to provide contracted police services for the Client, based on availability of officers. The Cannon Falls Police Department reserves the right to make staffing assignments and agrees to provide police services that benefit both the Client and the City of Cannon Falls. The Police Department may offer police services with plain clothes and/or uniformed officers. All officers assigned to contracted police service duty are State licensed peace officers, City of Cannon Falls employees. The Client understands that the police services requested are in addition to police services normally provided and that officers assigned to work the detail are not subject to direct supervision or control by the Client or of the Client's representatives. Officers working contracted police services will remain an employee of the City of Cannon Falls and will adhere to all State Statutes, City Ordinances and Department Policy.

The 2020 rate for contracted police services is \$72.00 per hour/per officer. There is a minimum charge of two (2) hours per officer for an event. If the Client requests the presence of a marked or unmarked squad, a squad will be provided with the officer at no extra expense. The Client will be responsible for payment to the City of Cannon Falls upon receiving an invoice. The Client is responsible for any additional time charges for court proceedings that result from the requested

contractual police services and such time will be billed to the Client, if incurred.

In the event of cancellation by the Client, if cancelled within twenty-four (24) hours of the event start time, the Client will be charged for all services which were contracted. In the event of cancellation by the City, there shall be no charges to the client and the City will provide as much advance notice as possible of its inability to assign an officer. The Client agrees to hold the City harmless for the cancellation.

No officer is permitted to engage in any illegal activity, participate in any activity that may, potentially, harm himself or anyone else, or allow any such activity to occur if observed by him. Failure of the contracting party to correct any problem brought to their attention by the officer shall cause the officer to cease any and all work immediately, with the Chief of Police being notified accordingly.

This agreement is for the dates/times listed above. This agreement is open ended and valid until cancelled or updated in writing by the Client or City of Cannon Falls. Dates may be added by the Client and coverage provided by the Police Department based on officer availability.

This Letter of Agreement, when signed and dated, will serve to hold each other accountable to the terms and conditions contained herein. The Client further agrees to waive any and all claims against the City of Cannon Falls, The Cannon Falls Chief of Police, and Cannon Falls Peace Officers for any form of damage or injury resulting from the police contracted services provided or requested.

Completed application/letter of agreement will be submitted to the Chief of Police, who shall be the sole authority in granting the use of Department staff. The Chief of Police may impose any other conditions or limitations on his or her approval that appear necessary in each individual situation. The Chief of Police shall have final say as to the number of officers needed after reviewing the event and promoters plans for the event.

Signed: _____

Date: _____

Printed Name: _____

Title: _____

Number of officers assigned: _____

Departmental Conditions or Limitations: _____

Approved by Chief of Police _____

Date: _____