

ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS
COUNTY OF ESSEX

ORDINANCE NO. O-2026-00011 AUTHORITY FOR RESOLUTION: N.J.S.A. 40:41A-41(b)
PASSED BY: _____ AUTHORITY FOR ACTION: N.J.S.A. 40A:9-117
PROPOSED BY: COUNTY EXECUTIVE AUTHORITY FOR ACTION: N.J.S.A. 40:41A-37(g)

SUBJECT: COUNTY OF ESSEX – AMENDMENT TO AND RESTATEMENT OF ORDINANCE NO. O-2023-00013 (CHAPTER §115-1 THROUGH §115-7) TO PERMIT OFF-DUTY/OUTSIDE WORK BY COUNTY LAW ENFORCEMENT OFFICERS OF THE ESSEX COUNTY SHERIFF'S OFFICE AND ESSEX COUNTY PROSECUTOR'S OFFICE FOR PUBLIC SAFETY AND, WHERE APPLICABLE, SECURITY FUNCTIONS AS REQUESTED BY PERSONS AND ENTITIES IN CONFORMANCE WITH RELEVANT LAWS, REGULATIONS, RULES AND GUIDELINES; TO PERMIT A THIRD-PARTY ADMINISTRATOR ("TPA") TO SCHEDULE OFF-DUTY ASSIGNMENTS AND COLLECT PAYMENTS; TO PERMIT A TPA TO COLLECT A SERVICE FEE FROM THE PERSONS OR ENTITIES REQUIRING OFF-DUTY OFFICERS IN ACCORDANCE WITH A COUNTY/TPA CONTRACT; AND TO SUPPLANT AND SUCCEED THE ESSEX COUNTY PROSECUTOR'S PILOT PROGRAM,3 ORDINANCE NO. O-2025-00011.

WHEREAS, the County of Essex ("County") has an interest in allowing its permanent, active full-time sworn Law Enforcement Officers to perform off-duty public safety functions for persons and entities requiring such services and desires to remove a limited reference in Ordinance No. O-2023-00013 regarding the off-duty/outside work of qualified Officers of the Essex County Sheriff's Office (Sheriff's Office) to include off-duty/outside work of qualified County Law Enforcement Officers of the Essex County Prosecutor's Office (Prosecutor's Office) during off-duty and nonemergency hours, consistent with the New Jersey Attorney General Guidelines, applicable federal, state and local laws and regulations; and

WHEREAS, "County Law Enforcement Officer(s)" or "Officer(s)" means any permanent, full-time, active sworn employee(s) of the County who is/are employed by the Essex County Sheriff's Office (Sheriff's Office) or the Essex County Prosecutor's Office (Prosecutor's Office) only; and

WHEREAS, the County desires to amend and restate Ordinance No. O-2023-00013 to continue to permit the County and/or Sheriff's Office to manage/administer an off-duty/outside

work program for qualified Officers (“Program”). This Ordinance also supplants and succeeds the Essex County Prosecutor’s Ordinance, No. O-2025-00011, regarding a limited Pilot Program for off-duty outside work by Prosecutor’s Superiors and Investigators; and

WHEREAS, a TPA may be utilized to effectuate said Program pursuant to a contract with the County and compliance with the amended and restated Ordinance; and

WHEREAS, the Security Officers Registration Act (“SORA”), N.J.S.A. 45:19A-1, et seq., governs the employment of security officers in New Jersey, including but not limited to, their registration, licensing and training; and

WHEREAS, the County recognizes the need to: (1) regulate the utilization of said Officers whose primary employer is the County of Essex; (2) establish procedures for their off-duty/outside employment; and (3) establish the rates and fees for these off-duty/outside assignments within the County while safeguarding the interests of Essex County taxpayers; and

WHEREAS, amending and restating the Ordinance will permit the County the option to use a TPA to schedule off-duty employment of Officers for a service fee; and

WHEREAS, the County wishes to amend and restate Ordinance No. 2023-00013 and supplant and succeed Ordinance No. O-2025-00011; and

NOW THEREFORE BE IT ORDAINED, by the Essex County Board of County Commissioners that this Ordinance be amended and restated as follows:

ARTICLE I
**Off-Duty/Outside Employment Essex County Law Enforcement
(ECSO and ECPO)**
**Adopted 2-27-2008 by Ord. No. O-2008-00002; Amended in its
entirety 7-27-2023 by Ord. No. O-2023-00013; Amended and
Restated in its entirety on _____, 2026 by**

§ 115-1. Off-Duty/Outside Employment of County Law Enforcement Officers (Essex County Sheriff's Office and Prosecutor's Office).

- A. The County desires to continue an Off-Duty/Outside Employment Program (Program) to provide qualified Essex County (County) Law Enforcement Officers with opportunities for authorized off-duty/outside employment consistent with the New Jersey Attorney General Guidelines, applicable federal, state and local laws and regulations. The Program is intended to promote public safety while ensuring that official County operations remain the highest priority.
- B. To accommodate those persons and entities requiring the services of off-duty County Law Enforcement Officers and to authorize off-duty/outside employment, the County hereby establishes these policies and procedures.
- C. "County Law Enforcement Officer(s)" or "Officer(s)" means any permanent, full-time, active sworn employee(s) of the County who is/are employed by the Essex County Sheriff's Office (Sheriff's Office) or the Essex County Prosecutor's Office (Prosecutor's Office) only.
- D. Administration of the Program for Officers shall be conducted by the County/Sheriff's Office and/or the Sheriff's designee subject to County administrative approvals if required. The Sheriff's Office has the right to delegate off-duty/outside jobs first to its own qualified Officers and then open an announcement for any remaining assignments to the Prosecutor's Office and then to other qualified agencies.
- E. The County/Sheriff's Office shall have full authority to administer the Program, adopt administrative rules and procedures, modify its operational practices, and implement any changes necessary to ensure compliance with applicable federal, state and local laws and regulations and Attorney General Guidelines.
- F. The County/Sheriff's Office may choose to utilize a secondary service designee/Third-Party Administrator ("TPA") to administer the Program. Administrative actions include but are not limited to: communicating with persons and entities requiring security services (applicants requiring off-duty Officer(s)) in order to schedule off-duty assignments; selecting and scheduling Officers for off-duty assignments; invoicing persons and entities requiring security services; and receiving escrow and/or payments from such persons and entities in a manner set forth in this article and memorialized in an agreement between the County and a TPA. A TPA may charge an additional fee for its services, not to exceed 8% of pay for an assignment based on an applicable fee structure. A TPA shall comply with applicable laws and regulations regarding payments and accounting as set forth in an agreement between the County and TPA. A TPA must agree to reimburse/pay the County and the Officer via ACH, or other funds transfer methods approved by the County, the administrative fees due to the County and payments to Officers for off-duty work performed, in a timely manner, during the relevant County pay period for which the off-duty work was performed, or no later than the next County pay period.

- G. A TPA must in writing agree with the provisions of this article, and this article must be attached to said agreement.
- H. Any Officer who independently accepts and performs any security work or any other outside work without assignment through the County's Program, shall not be considered an employee of the County and shall not be covered by the County's Workers' Compensation. The County shall not indemnify or defend said work, and the Officer shall be considered as working as an independent contractor for or an employee of the private company, not the County. The Officer is not permitted to wear his/her Essex County uniform or otherwise exhibit evidence of authority as an Officer and is not permitted to use County property such as a weapon, badge and/or County ID. Any Officer independently seeking outside work must disclose any outside work immediately to the County in written form and request permission before accepting work, which permission shall be granted or denied by the County, in its sole discretion.
- I. The County's Law Enforcement Office reserves the sole authority to approve, deny, modify, suspend, or cancel any off-duty/outside employment assignment before or during the assignment.

§ 115-2. Requests for services.

- A. Any person or entity seeking to employ off-duty Officers ("the applicant" requesting off-duty Officer(s)) shall first obtain the approval of the County Sheriff and/or the Sheriff's designee. The County or third party agency (TPA) is authorized to execute an agreement with the applicant for services needed, which agreement shall set forth the specific nature of the services to be performed, the location, dates and hours of service, payment arrangements mandated herein, number of Officers needed, insurance coverage and/or any other provisions required by law or regulation of the State of New Jersey. As a condition precedent, the applicant must first file a request for services with the County Sheriff's Outside Employment Unit ("OEU") or TPA and ensure it is in compliance with all relevant laws and regulations, including but not limited to SORA.
- B. Any Officer, when so assigned by the County, shall be considered an employee of the County; provided, however, that any and all wages earned for off-duty/outside employment shall not be applied toward the pension benefits of Officers so employed or for incremental raises, or for FMLA or NJFLA pay or computation of qualifying time under any leave program, nor shall hours worked for outside employment be considered in any way compensable as overtime under any collective bargaining agreement and/or the Fair Labor Standards Act (see 29 U.S.C. §201, et seq.) or compensable in any other manner that requires the County to pay the Officers with County funds through its payroll system. All Officers shall be subject to federal, state and local laws and regulations and the Attorney General's Guidelines.

§ 115-3. Billing/payment schedule/escrow accounts.

Billing periods. Billing and payment practices for persons or entities contracting for the provision of security services by off-duty Officers shall be conducted in accordance with local finance laws and regulations promulgated by the Local Finance Board.

§ 115-4. Rates of compensation; administrative fees; payment for services.

Due to the wide variety of assignments Officers may be asked to perform, as well as varying rates of compensation paid to Law Enforcement Officers by the various municipalities, it is reasonable to allow for different rates. The County or TPA is responsible for collecting \$85 per hour per Officer, which is the minimum hourly rate for a County Law Enforcement Officer (or the rate paid to police officers in the municipality in which they are to be working off-duty, whichever is higher). The County or TPA is responsible for collecting an administrative fee of \$7 per hour per Officer (or the municipal "administrative fee," whichever is higher) which the County charges to recoup its expenses for processing requests and payments. The County or TPA is also responsible for collecting the vehicle fee as mentioned below and/or Superior Officer rate as mentioned below, if applicable, and the employer's FICA. Thus, the County or TPA shall collect the following:

- County Law Enforcement Officer hourly rate or the municipal rate, whichever is higher;
- Administrative fee or the municipal administrative fee, whichever is higher;
- The employer's FICA; and
- The vehicle fee and/or Superior Officer's hourly rate, if applicable.

If a TPA is in place, the TPA shall be responsible for paying the County in accordance with section **§115-4** above. The County shall be responsible for deducting the employee's share of FICA and all applicable taxes. The Officer shall receive the net remaining amount through the County's regular payroll. The amount an Officer earns off-duty shall be reflected in the Officer's W-2 from the County. The TPA shall collect its service fee on each assignment from the person or entity requiring off-duty work (separate from the amounts earned by an Officer) and the administrative fees to the County plus any other applicable fees. Unless there are contractual agreements with a person or entity to the contrary, the rates of compensation for the assignments are as listed in section **§115-4**.

Four-hour minimum. All assignments shall have a four-hour minimum per Officer contracted. Any assigned TPA shall ensure this minimum for assignments. Officers are entitled to a pay of a four-hour minimum if the assignment is cancelled without a four-hour notice prior to the contracted start time. Officers who begin an assignment that is cancelled before its completion shall be entitled to pay at the rate of the four-hour minimum or actual hours worked, whichever is longer.

Jobs requiring a marked County law enforcement vehicle(s) shall pay \$20 per vehicle per hour (or the municipal rate, whichever is higher) to the County. If the local ordinance does not specify a rate for a marked unit, the rate for a marked County law enforcement vehicle shall be \$20 per hour. Compensation for an Officer working with a marked County law enforcement vehicle shall be in accordance with section **§115-4** above.

Superior Officers. Compensation for a Superior Officer, specifically requested due to his or her status as a Supervisor, shall be at the hourly rate of \$95 per hour (or the current prevailing “municipal rate for supervisor,” whichever is higher). The manner of payments shall be made as detailed in §115-4 above. All assignments that require four Officers to safely perform an assignment as determined by the County Law Enforcement Office shall have one supervisor on the job site for every four Officers employed (subject to the discretion of the County Law Enforcement Office). For example, an event requiring five to eight Officers may require two Supervisors, subject to the discretion of the County Law Enforcement Office.

§ 115-5. Contractor obligations and limitations.

Persons or entities contracting for off-duty law enforcement services are placed on notice that the County is the primary employer of Officers and, in contracting for such services, expressly agree to the following conditions and restrictions:

- A. Off-duty/outside work is subject to any and all lawful restrictions and/or the discretion of an Officer’s County department/agency.
- B. Cancellations. Persons or entities that have contracted for off-duty Officers and wish to cancel must provide a minimum of four hours’ notice or be subject to the four-hour minimum for each Officer contracted. Subsequent notification to the Officer(s) must be made by the TPA in the same manner as the off-duty assignment and/or by live telephone call to each affected Officer.
- C. Number of Officers needed. Persons or entities contracting for the services of off- duty Officers must accept as final the number of Officers required for the job at hand as determined by the County Sheriff.
- D. Nothing contained herein shall be construed as creating an obligation for the County to accept or staff any outside assignment. All requests for services shall remain subject to operational necessity, managerial prerogative, personnel availability, and/or public safety considerations.
- E. The County’s Law Enforcement Offices shall, at all times, have the authority to order the Officer engaged in off-duty/outside work assignments to respond to a law enforcement obligation. The County Law Enforcement Office and/or an Officer shall also have the right to terminate any off-duty/outside work assignment whenever said assignment creates an unacceptable risk to the health, safety or welfare of the off-duty Officer and/or the citizens of Essex County.

§ 115-6. Insurance requirements.

- A. Persons or entities contracting for off-duty law enforcement services are responsible for providing all insurance coverage as required by law. Any TPA must make sure there is compliance with this provision. Each persons or entity contracting for off-duty law enforcement services shall provide the County with appropriate certificates of insurance naming the County of Essex and the Officers as additionally insured, on a primary and non-contributory basis, and evidencing that the Officer and Essex County are covered by general liability coverage of at least \$1,000,000 for each occurrence,

\$2,000,000 in the aggregate. Persons or entities contracting for off-duty law enforcement services shall cause the County of Essex to be named as an additional insured on applicable policies and will deliver same to County Risk, Hall of Records, 4th Floor, Newark, NJ. Before assigning work, a TPA shall procure immediate insurance compliance from the persons or entities contracting for off-duty law enforcement services and provide a copy of same to the County prior to the assignment; this paragraph is a condition precedent to any assignment. The County maintains workers' compensation with respect to off-duty/outside work, except for §115-1(H) above.

- B. The certificate of insurance or the policy shall contain the following language: The Insurer shall indemnify, defend and hold harmless the County of Essex, County Constitutional Officers, Directors, Division Heads, Departments, Divisions, Boards, Committees, County Employees, Officers, Agents, Officials, Elected Officials, Commissioners, Administrators and Servants from and against any and all claims, or actions at law, whether for personal injury, death, property damage or liability including any costs of defense incurred by the County of Essex, County Constitutional Officers, Directors, Division Heads, Departments, Divisions, Boards, Committees, County Employees, Officers, Agents, Officials, Elected Officials, Commissioners, Administrators and Servants which arise out of or are related to any acts or omissions of the insured and/or off-duty Officers and/or related to the use of off-duty Officers and/or off-duty/outside work.

§ 115-7. Indemnification.

- A. The person or entity contracting for off-duty law enforcement services and the applicable insurer shall indemnify, defend and hold harmless the County of Essex, County Constitutional Officers, Directors, Division Heads, Departments, Divisions, Boards, Committees, County Employees, Officers, Agents, Officials, Elected Officials, Commissioners, Administrators and Servants from and against any and all claims, or actions at law, whether for personal injury, death, property damage or liability, including any costs of defense incurred by the County of Essex, County Constitutional Officers, Directors, Division Heads, Departments, Divisions, Boards, Committees, County Employees, Officers, Agents, Officials, Elected Officials, Commissioners, Administrators and Servants which arise out of or are related to any acts or omissions of the insured and/or off-duty Officers and/or related to the use of off-duty Officers and/or off-duty/outside work.
- B. This indemnification and hold harmless agreement shall apply in all instances, whether County of Essex, County Constitutional Officers, Directors, Division Heads, Departments, Divisions, Boards, Committees, County Employees, Officers, Agents, Officials, Elected Officials, Commissioners, Administrators and Servants are plaintiffs, defendants, direct parties to the initial action or claim, or are subsequently made parties to the action by third-party in-pleading, or are made parties to a collateral action arising, in whole or in part, from any of the issues from the original cause of action or claim.

Approved as to form and legality Jerome St. John
County Counsel

Record of Vote (X = Vote N.V. = Abstention ABS = Absent)

FIRST READING

RICHARDSON

MOVED BY COMMISSIONER

MURRAY-THOMAS

SECONDED BY COMMISSIONER

COMMISSIONER	YES	NO	N.V	ABS
COOPER				X
GILL				X
LUCIANO	X			
MERCADO	X			
MURRAY-THOMAS, V.P.	X			
RICHARDSON	X			
SEBOLD	X			
SERMONS				X
POMARES, PRES.	X			

It is hereby certified that the foregoing Resolution was
(x) adopted ()defeated () tabled by a roll call vote at a Regular
meeting of the Commissioner of the County of Essex, New Jersey,
held on August 12, 2026

Carlos M. Pomares, President