Department of criminal law enforcement

Number: AGO 74-236

Date: November 05, 1998

Subject:
Department of criminal law enforcement

DEPARTMENT OF CRIMINAL LAW ENFORCEMENT--APPOINTMENT OF DIRECTORS OF DIVISIONS OF LAW ENFORCEMENT AND STANDARDS AND TRAINING

To: A. M. Fontana, Representative, 107th District, Miami

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QUESTION:

What is the legislative intent in providing for the appointment of directors of the Division of Law Enforcement and the Division of Standards and Training, respectively, of the Department of Criminal Law Enforcement?

SUMMARY:

Under section 4(1) of Ch. 74-386, Laws of Florida [s. 943.04, F. S. (1974 Supp.)], the governor and cabinet, as the "head" of the Department of Criminal Law Enforcement, have the duty to employ the director of the Division of Law Enforcement upon the recommendation of the executive director of the department; and under section 7(1) of the act [s. 943.09], they have the duty to employ the director of the Division of Standards and Training with the approval of the Police Standards and Training Commission.

Chapter 74-386, Laws of Florida, reorganized the old Department of Law Enforcement (created by Ch. 67-2207, Laws of Florida, as the Bureau of Law Enforcement and included in the Governmental Reorganization Act of 1969, Ch. 69-106, *id.*, as one of the executive departments therein created, see s. 20.20, F. S.) into four divisions, including the Division of Law Enforcement and the Division of Standards and Training. The name of the department was also changed to the Department of Criminal Law Enforcement. However, no change was made in the provisions relating to the "head of the department" -- which is still the governor and the cabinet -- nor in those relating to the executive director of the department, who is still appointed by the governor with the approval of three members of the cabinet, subject to confirmation by the senate.

Among the powers and duties of the "department" prescribed by Section 3 of Ch. 74-386, *supra* [s. 943.03(2), F. S. (1974 Supp.)], is the duty to

". . . employ such administrative, clerical, technical, and professional personnel, including division directors, *as hereinafter provided*, as may be required, at salaries to be established by the department, to perform such duties as the department may prescribe." (Emphasis supplied.)

Section 4(1) of Ch. 74-386 [s. 943.04(1)] provides for the appointment and the duties of the director of the Division of Law Enforcement as follows:

"The division of law enforcement shall be supervised by a director, who shall be employed by the department upon the recommendation of the executive director. It shall be the duty of the director to supervise, direct, coordinate and administer all activities of the division."

However, section 7(1) of the act [s. 943.09], relating to the Division of Standards and Training, provides that "[t]he department of criminal law enforcement shall employ a division director *with the approval of the commission*." (Emphasis supplied.) This section of the act also creates a Police Standards and Training Commission [s. 943.11] within the Department of Criminal Law Enforcement to carry out the duties and functions formerly performed by the Police Standards Board of the Department of Community Affairs (Part IV of Ch. 23, F. S. 1973, repealed by Ch. 74-386, *supra*).

I find no inconsistency in the provisions of the act referred to above. The duty of the governor and the cabinet, as the "head" of the Department of Criminal Law Enforcement, is to employ the directors of the divisions *as thereafter prescribed in the act*. Thus, under section 4(1) of the act, *supra* [s. 943.04, F. S. (1974 Supp.)], the director of the Division of Law Enforcement is to be employed by them upon the recommendation of the executive director of the department; however, under section 7(1) [s. 943.09], the director of the Division of Standards and Training is to be employed by them with the approval of the Police Standards and Training Commission.