Law Enforcement Officers, private employment

Number: INFORMAL

Date: November 10, 2011

Chief Gary Knowles
West Miami Police Department
901 Southwest 62nd Avenue
West Miami, Florida 33144

Attn: Captain Nelson Andreu

Dear Chief Knowles:

You have asked several questions relating to the employment by your agency of sworn law enforcement officers who may also work as licensed private investigators or uniformed security guards or own these businesses. Based on the questions you have asked, I understand your concerns to be primarily potential conflicts of interest. Questions relating to conflicts of interest are within the jurisdiction of the Florida Ethics Commission which issues opinions on the provisions of Part III, Chapter 112, Florida Statutes, the Code of Ethics for Public Officers and Employees.[1] You may wish to contact the Florida Commission on Ethics to request their assistance in addressing these matters, but I offer the following informal comments to assist you.

You question whether a sworn law enforcement officer who is employed by a police department may work as a licensed private investigator or a security guard or be the owner of a licensed private investigation agency or security agency. You also ask whether that employment may create a conflict of interest, but provide no details of what aspects of this relationship may be of concern. Further, you have not provided this office with any information on current policies of your agency relating to dual employment, but any such departmental policy would be relevant.

I am aware of no statutory provision which would prohibit a sworn law enforcement officer in this state, who is employed by a police department, from working in the capacity of a licensed private investigator or security officer or the owner of a licensed private investigation or security agency.[2]

Section 943.13(7), Florida Statutes, establishes good moral character as a minimum qualification for employment or appointment of law enforcement officers. Rules of the Criminal Justice Standards and Training Commission relating to certification and employment or appointment provide that each employing agency is responsible for conducting a thorough background investigation to determine the moral character of applicants. The elements of "moral character" for purposes of certification, employment, or appointment of law enforcement officers are set forth in Rule 11B-27.0011, Florida Administrative Code. Particularly, I would note that Rule 11B-27.0011(4)(c)2., Florida Administrative Code, states that a certified officer's failure to maintain good moral character as required by section 943.13(7), Florida Statutes, includes "[m]isuse of official position, defined by Section 112.313(6), F.S."[3] Section 112.313(6), Florida Statutes, is a section of the Code of Ethics for Public Officers and Employees which is interpreted by the

Florida Ethics Commission.[4] Further, I would note that the Code of Ethics contains other provisions which may relate to your questions of moral conduct and conflict of interest. As an example, section 112.313(7)(a), Florida Statutes, provides:

"(7) CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.
(a) No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, an agency of which he or she is an officer or employee, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the state or any municipality, county, or other political subdivision of the state; nor shall an officer or employee of an agency have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his or her private interests and the performance of his or her public duties or that would impede the full and faithful discharge of his or her public duties."[5]

I trust that these informal comments will assist you in considering employment policy for the West Miami Police Department. Thank you for considering the Florida Attorney General's Office as a source for assistance.

Sincerely,

Gerry Hammond
Senior Assistant Attorney General

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[1] *See* s. 112.322(3), Fla. Stat., authorizing the Florida Commission on Ethics to issue opinions relating to the applicability of the Code of Ethics to public officers, employees, and candidates for public office.

[2] *Compare* s. 561.25, Fla. Stat., which prohibits law enforcement officers and certain others from being employed by or engaging in an alcoholic beverage business.

[3] *And see* Rule 11B-27.005(5)(c)3, F.A.C., which prescribes suspension as the penalty for misuse of official position.

[4] *See* s. 112.322(3)(a) and (7), Fla. Stat.

[5] *See also* s. 112.313(8), Fla. Stat., providing:

"DISCLOSURE OR USE OF CERTAIN INFORMATION.A current or former public officer, employee of an agency, or local government attorney may not disclose or use information not available to members of the general public and gained by reason of his or her official position, except for information relating exclusively to governmental practices, for his or her personal gain or benefit or for the personal gain or benefit of any other person or business entity."