

Internal investigation of law enforcement officer

Number: INFORMAL

Date: July 17, 1997

Mr. John Dellagloria
North Miami City Attorney
776 Northeast 125th Street
North Miami, Florida 33161

RE: LAW ENFORCEMENT OFFICERS--MUNICIPALITIES--PUBLIC OFFICERS AND EMPLOYEE--LAW ENFORCEMENT OFFICERS BILL OF RIGHTS--participation in internal investigation of police officer by city manager, city attorney and city council members. Part VI, Chapter 112, Florida Statutes.

Dear Mr. Dellagloria:

You have asked whether Part VI, Chapter 112, Florida Statutes, commonly referred to as the Law Enforcement Officers' Bill of Rights, authorizes the participation in or review of an ongoing police department's internal investigation of one of its law enforcement officers by the city manager, city attorney, or members of the city council. Attorney General Butterworth has asked me to respond to your letter.

According to your letter, the City of North Miami Police Department has begun an internal investigation of one of its officers which may lead to the officer's demotion or dismissal or other disciplinary action. The city manager, city attorney, and city council members may want to review the police department's investigation of the subject officer or to participate in the internal investigation. You ask whether the Law Enforcement Officers' Bill of Rights would permit participation in an internal investigation of a police officer by these city officials.

Nothing in Part VI, Chapter 112, Florida Statutes, establishes who may conduct or participate in an internal investigation of a law enforcement officer. The policy of the local law enforcement agency involved in conducting the internal investigation would appear to control this matter. Review of the information collected and considered in the investigation is authorized by those outside the scope of the investigation after the investigation ceases to be active or notice has been provided to the officer of the conclusion of the investigation and its findings unless such records are exempt from public disclosure pursuant to section 119.07(3).

As the legal advisor for the police department, I would assume that the policy governing internal investigations authorizes your presence and participation at such investigations. However, the attendance at and participation in such proceedings by those not otherwise authorized by standardized policy of the department may jeopardize any disciplinary action recommended and implemented and could subject the city council to legal action for their unauthorized involvement in personnel matters.

I am enclosing copies of several Attorney General Opinions which this office has recently issued

relating to internal investigations and trust that this information will assist you.

Sincerely,

Gerry Hammond
Assistant Attorney General

GH/tgk

Enclosures: AGO's 96-18 (1996), 96-05 (1996), 95-41 (1995), 93-61 (1993), and 91-73 (1991).