
INQ 16-72 Mendez

From: Centorino, Joseph (COE)
Sent: Wednesday, March 09, 2016 4:54 PM
To: 'Wysong, George' <GWysong@miami-police.org>
Cc: Mendez, Victoria <VMendez@miamigov.com>; Min, Barnaby <bmin@miamigov.com>; Perez, Martha D. (COE) <perezmd@miamidade.gov>
Subject: INQ 16-72 Victoria Mendez, City Attorney, City of Miami (Exploitation, Nepotism)

Mr. Wysong:

You have inquired on behalf of City Attorney Victoria Mendez regarding whether there may be any ethical conflicts faced by her in connection with her providing advice and counsel to the Miami City Commission in connection with a decision it will make on whether to continue using the existing Community Relations Board (CRB) to provide oversight and feedback to the Miami Police Department (MPD) and Independent Reviewer under an agreement between the City and the U.S. Department of Justice, or whether to create a new board for such purposes. The request is made in light of the fact that Ms. Mendez's husband serves as an unpaid, volunteer member of the CRB, and the City Attorney's advice may influence a decision regarding whether it will be designated to provide the insight and feedback to the MPD, and, consequently, whether her husband will be involved in that role.

It does not appear to me that her role in the process at this point creates any prohibited conflict for her under the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance. I do not see that her involvement would be likely to lead to any Exploitation of her public position under Section 2-11.1(g) or any conflict under another provision of the Code in the circumstances related by you. While this agency does not have the jurisdiction to interpret or enforce the State of Florida Code of Ethics, it does not appear to me that the action in question would implicate the Nepotism provisions under Section 112.3135, Florida Statutes, since she is not in a position to appoint, employ, promote, or advance her husband in his capacity as a member of the CRB. Any definitive ruling on this issue would, of course, have to come from the Florida Commission on Ethics. In addition, it would be up to Ms. Mendez to determine whether any appearance of impropriety may be created by her involvement in recommending the action sufficient for her to consider recusal from that role.

For the purposes of transparency, I do recommend that, in the event that the City Attorney is called upon to provide advice in connection with the utilization of the CRB for the purposes outlined in your email, she disclose to the Commission her husband's membership on the CRB.

Sincerely,

Joe Centorino

Joseph M. Centorino
Executive Director and General Counsel

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From: Wysong, George [<mailto:GWysong@miami-police.org>]
Sent: Wednesday, March 09, 2016 2:15 PM
To: Centorino, Joseph (COE) <CENTORI@miamidade.gov>
Cc: Mendez, Victoria <VMendez@miamigov.com>; Min, Barnaby <bmin@miamigov.com>; Perez, Martha D. (COE) <perezmd@miamidade.gov>
Subject: Ethics Question

Good afternoon Mr. Centorino,

I am writing to request an opinion as to whether a conflict of interest exists under the following circumstances: There is an item on the City of Miami Commission Agenda for this Friday, March 11, 2016 relating to the City of Miami Community Relations Board ("CRB") and their role in the recent agreement between the City of Miami and the United States Department of Justice regarding the Miami Police Department. The agreement provides that the City may either create a new board or utilize the already existing CRB to provide oversight and feedback to the Miami Police Department and the Independent Reviewer. At the City Commission meeting the City Attorney may be asked for advice and counsel on the efficacy of using the CRB versus creating an entirely new board.

The question arises from the fact that the City Attorney's husband currently serves as a member of the CRB and has most recently served as its Chair. Thus the question is, does his voluntary and uncompensated service on the advisory CRB create a conflict of interest for the City Attorney?

In my office's opinion it does not appear that there is any sort of conflict of interest due to the fact that, first and foremost, there will not be a "special private gain or loss" to either the City Attorney or her husband. The City Attorney will not derive any type of private gain or loss related to her husband's continued participation on the CRB in the event they are assigned additional duties. Participation by the husband on the CRB is purely voluntary and the CRB members do not receive any type of compensation for their participation. The CRB members are appointed and removed by the Mayor and City Commission. The City Attorney does not have any control or authority over the members of the CRB.

Secondly, there does not appear to be a conflict because the nature of the CRB's role will be advisory in nature. The CRB is not *sui juris* and does not have the power to sue or be sued thus there will not be a conflict between the City, the City Attorney's Office and the CRB. The CRB's role, according to the agreement, will be strictly advisory. Its specific duties will be to:

- Advise the Chief, majors and commanders on strategies and training to improve community relations and MPD responsiveness to community concerns;
- Work with the Chief, majors and commanders to establish and carry out community public safety priorities;
- Provide the community with information on the Agreement and its implementation; and

- Receive and convey to MPD and DOJ public comments and concerns, in addition to MPD's civilian complaint system.

We would appreciate your review and advice related to the question presented above. Thank You.

GEORGE K. WYSONG III

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