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April 3, 2003

Elizabeth Hernandez
City Attorney
City of Coral Gables
405 Biltmore Way
Coral Gables, FL 33134

RE: REQUEST FOR OPINION INQ 03-25

Dear Ms. Hernandez:

You requested an opinion regarding the reporting requirements and any prohibitions as they relate to outside employment and off-duty work by city police officers.

According to the facts submitted, City of Coral Gables police officers work off-duty jobs at various locations in the city. The off-duty assignments come through the police department; however, the officers are paid directly by the third party who hires them. While engaged in the off-duty assignment, the officers are in uniform and can be called to official duty should the department need them to respond to an incident.

Even though the off-duty work is coordinated through the police department, the police officers receive income for said work by a third party, and accordingly are subject to the outside employment reporting requirements under the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance. Section 2-11.1 (k)(2) "Prohibition on outside employment" provides,

"All full-time County and municipal employees engaged in any outside employment for any person, firm, corporation or entity other than Miami-Dade County, or the respective municipality, or any of their agencies or instrumentalities, shall file, under oath, an annual report indicating the source of the outside employment, the nature of the work being

done pursuant to same and any amount or types of money or other consideration received by the employee from said employment.”

Additionally, these income disclosure forms are to be filed with the City Clerk by July 1st of each year, including the July 1st following the last year that person held the outside employment.

For purposes of identifying the nature of the outside employment on the disclosure form, reporting the work as “off-duty security detail” is sufficient.

However, in instances where the off-duty work is not coordinated through the police department or is unrelated to off-duty police work, the employee must first obtain permission from the department director.

This opinion construes the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics should you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call Christina Prkic, Staff Attorney at (305) 350-0615 or the undersigned at (305) 579-2594.

Sincerely Yours,



ROBERT MEYERS
Executive Director

Cc: Chief Ana Baixauli
Cc: Chief James Harley

Meyers, Robert (COE)**To:** Hernandez, Elizabeth**Subject:** RE: police off duty

INQ 03-25

Liz,

Always good seeing you and catching up on the issues that are important to both of us. Thank you for giving me the opportunity to meet with you and Chief Baixauli and Chief Harley on the subject of outside employment and off-duty work.

Based on our discussions and the purpose of Code Section 2-11.1(k), I conclude that police officers engaging in off-duty work are required to comply with the reporting requirements of law. As you know, the outside employment section mandates that two steps are followed. The first is that permission must be granted, which is not an issue in this case because the department actually coordinates the assignments. The second step requires the income disclosure by July 1st of the year following the year the person held such employment. Thus, for outside income earned in 2002, the income must be reported by July 1, 2003. It seems perfectly reasonable to me that these activities can be lumped together and identified as "off-duty security detail" for purposes of police officers reporting the income generated from these activities for the years in question.

Obviously, in cases where a police officer works a second job that is unrelated to off-duty police work and the department is not involved in coordinating the outside employment, the employee must adhere to the two-step process spelled out in this section of the Code.

Please do not hesitate to contact me if you have any questions.

Thanks,

Robert

-----Original Message-----

From: Hernandez, Elizabeth [mailto:ehernandez@coralgables.com]**Sent:** Tuesday, March 25, 2003 5:23 PM**To:** Meyers, Robert (COE)**Cc:** 'jharley@pd.citybeautiful.net'; Baixauli, Ana**Subject:** police off duty

Robert,

It was a treat to visit with you today. As a follow up to our meeting with Chief Baixauli and Chief Harley, I wanted to ask for your written opinion on the provisions of the Conflict of Interest and Code of Ethics specifically as it relates to subsection (k) entitled "Prohibition on outside employment" and the hiring of off duty police officers by third parties.

As we discussed, our officers work off-duty jobs at various locations in the city (house parties, gallery openings, security etc). Those assignments come through the department and the officers are paid directly by the party who hires them. The officers are in uniform and can be called to duty should the department need them to respond to an incident.

Must the officers comply with the reporting requirements of section (k), in light of the fact that these assignments are made by the department, and secondly, if they must report will the yearly report with the sum total and general description "off duty security detail" be sufficient for purposes of the reporting requirement. If you answer to the second question is negative please advise as to what are the minimum requirements imposed by the ordinance.

3/26/03

I look forward to your response.