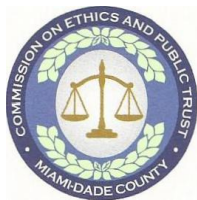


MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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October 31, 2022

Via Electronic Mail Only:
ruamendelarua@gmail.com

Mr. Ruamen de la Rua
15051 Southwest 167th Street
Miami, Florida 33187

Re: INQ 2021-149, Section 2-11.1(g), County Ethics Code, Exploitation of Official Position,
Candidacy for Public Office

Dear Mr. de la Rua:

Thank you for contacting the Miami-Dade County Commission on Ethics and Public Trust and requesting our guidance regarding potential conflicts of interest relating to your City of Miami employment and candidacy for public office.

Facts:

You are a City of Miami Police Officer. You have publicly made known your candidacy for the elected position of Sheriff of Miami-Dade County.¹ Once you have filed the appropriate documents, you plan to actively engage in fundraising and campaigning, to include seeking endorsements of your candidacy.²

¹ In November 2018, Article VIII, Section 1(d) of the Florida Constitution was amended to provide that the electors of each county must elect a sheriff, and that a county charter may not abolish the office of the sheriff. Broadly stated, in Miami-Dade County, this amendment had the effect of restoring the office of sheriff which had been abrogated by county charter and the duties of that office transferred to the County Mayor and by designation to the Director of the Miami-Dade Police Department.

² Prior to accepting contributions, spending funds, or collecting petition signatures, a candidate must file an Appointment of Campaign Treasurer and Designation of Campaign Depository with the with the elections qualifying officer. Thereafter, the candidate must file a Statement of Candidate, again, with the qualifying officer

The election for Sheriff of Miami-Dade County will be held in November 2024 and the successful candidate will assume office on January 7, 2025. It is expected that pre-qualifying will likely commence in May 2024 and the deadline to qualify will be in June 2024.

You would like to know whether you are permitted to run and campaign for the position of Sheriff of Miami-Dade County while employed as a police officer by the City of Miami Police Department. You would also like to understand your political rights and any limitations imposed by the County and City of Miami Ethics Codes.

Issue:

Whether a conflict of interest exists regarding your municipal employment as police officer and your candidacy for county sheriff.

Discussion:

Neither the County or City of Miami Ethics Codes prohibit a municipal employee from engaging in political activities outside the workplace or from running for elected office.³ Moreover, while a County employee who qualifies as a candidate for elected office will likely have to take a leave of absence from his public position, there does not appear to be any such limitation on a City of Miami employee that is running for a position outside of the City of Miami.⁴

However, Section 2-11.1(g) of the County Ethics Code relating to exploitation of official position, prohibits local government employees from using their public positions to secure special privileges or exemptions for themselves or others.⁵ As such, any political campaigning must occur outside

³ See Section 2-11.1, Miami-Dade Code; Sections 2-611 to 2-619, City of Miami Code

But see Section 99.012(3), Florida Statutes (Florida’s “resign-to-run law” essentially prohibits an elected or appointed “officer” from qualifying as a candidate for another state, district, county, or municipal public office if the terms or any part thereof run concurrently with each other, without resigning from the office the person presently holds. It will generally not apply to a police officer in all but limited situations when a subordinate police officer is seeking to qualify for a public office which is currently held by “an officer who has authority to appoint, employ, promote or otherwise supervise that person and who has qualified as a candidate for reelection to that office.”

⁴ See Section 1.05 (c), Miami-Dade County Charter (County employee who qualifies as a candidate for election to certain County offices shall immediately take a leave of absence.); County Administrative Order 7-2 (Any employee of Miami-Dade County who qualifies as a candidate for election to any federal, state or municipal office shall immediately take a leave of absence from his or her County position until the date of the election and shall, if elected, immediately forfeit his or her County position.)

⁵ See also Section 112.313(6), Florida Statutes (The State Ethics Code has a similar provision titled, Misuse of Public Position); Section 104.31, Florida Statutes, (Prohibits State, County, and Municipal Officers and Employees, from using their official authority or influence “for the

of working hours. Also, the employee's conduct should conform to the limitations contained in the attached Ethics Commission memorandum: Limitations on Political Activities of County and Municipal Officers and Employees.

Specifically, the employee may not use his or her public position or any city resources, in any way, in support of the campaign.⁶ As relates to seeking campaign contributions or political endorsements, employees are prohibited from directly or indirectly using their county or municipal positions to intimidate or coerce others into supporting either their own candidacy; a chosen candidate; or to make political contributions.⁷

In abundance of caution, and cognizant of a law enforcement officer's unique responsibilities and position requirements, the officer running for public office should avoid *any* overlap whatsoever between complainants, victims, subjects, or witnesses on any matter in which he or she is involved as a police officer, and campaign related activities.

Opinion:

Applying the plain language of the Ethics Codes and the rationale underlying the Ethics Commission's conclusions in the opinions cited herein, there is no conflict of interest that would prohibit your candidacy for the position of Sheriff of Miami-Dade County while concurrently employed as a City of Miami Police Officer.

You should exercise caution regarding the limitations placed on municipal employees engaging in political campaign activities as referenced.

This opinion only construes the Miami-Dade and City of Miami Ethics Codes, and it is based on the facts as you have presented them to the Ethics Commission.

While state statutes may be referenced, any comment or citation regarding state or local laws is included for informational purposes only. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics. Also, while consultation with the Miami City Attorney's Office occurred as a predicate to this opinion, in abundance of caution, you may additionally wish to consider consulting with the City of Miami's human resources staff and your command staff regarding municipal personnel rules or police standard operating procedures.

purpose of interfering with an election or a nomination of office or coercing or influencing another person's vote or affecting the result thereof.”)

⁶ INQ 15-26; INQ 16-21; and INQ 18-200

⁷ RQO 05-06; INQ 18-232; and INQ 17-49

Thank you again for consulting with the Ethics Commission.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Arrojo".

Jose J. Arrojo
Executive Director

cc: All COE Legal Staff
George Wysong, Miami Assistant City Attorney

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Ethics Commission or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.