



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Major Carlos D. Gonzalez
Miami-Dade Police Department

FROM: Jose J. Arrojo
Executive Director
Commission on Ethics

SUBJECT: INQ 2022-156; Section 2-11.1(j), Conflicting employment prohibited; Section 2-11.1(g), Exploitation of official position prohibited

DATE: November 18, 2022

CC: All COE Legal Staff
Miami-Dade County Police Legal Bureau

Thank you for consulting with the Miami-Dade County Commission on Ethics and Public Trust and for seeking guidance regarding the application of the County Ethics Code to your outside employment as a police practices and policy consultant.

Facts:

You are a sworn law enforcement officer holding the rank of Police Major and are employed with the Miami-Dade Police Department (MDPD). You have been employed with the MDPD as a sworn officer since April 1994. You are currently assigned as the Director of the Miami Dade Public Safety Training Institute (MDPSTI). The MDPSTI serves as a Florida Department of Law Enforcement (FDLE) Criminal Justice Standards and Training Commission regional training center, and it is a certifying agency for law enforcement and corrections officers. The MDPSTI provides all levels of in-house departmental training for the MDPD and also affords training to local, state, and federal law enforcement agencies, as well as members of other law enforcement and criminal justice agencies from around the world.

You are also the founder, owner and Chief Executive Officer of Blue Theory, LLC (BT), a Florida registered for profit entity. Through BT, you are engaged as a police practices consultant. More specifically, you consult with clients regarding the appropriate use of force by police, and other

police policies and practices. You do not accept retainer in matters occurring in Miami-Dade County. Moreover, you have advised that you likewise will not accept retainer in criminal matters where sworn law enforcement officers have been accused of illegal use of force.

You have obtained permission from the MDPD Director for your outside employment as a private consultant as described above.

Issue:

Whether a Miami-Dade County Police Major assigned as the Director of the Miami Dade Public Safety Training Institute, may engage in outside employment as a consultant on police use of force, police policies and practices.

Discussion:

Work as a compensated police practices consultant through a private entity, is considered outside employment.

Sections 2-11.1(j) of the Miami-Dade County Ethics Code prohibits County employees from engaging in outside employment which would impair the County employee's independence of judgment in the performance of his/her official duties thereby creating a conflict between the employee's public duties and private interests.

Moreover, County Administrative Order 7-1 provides that County employees must conduct the public's business without even an appearance of conflicting loyalties: "Under no circumstances shall a County employee accept outside employment...where a real or apparent conflict of interest with one's official or public duties is possible."

Finally, because of the unique and sensitive work required of police officers and the importance of maintaining the public's confidence in police agencies, the MDPD's internal rules provide that sworn officers should not engage in outside employment if the nature of the work could "be considered detrimental to the best interests of the Department" or "which has the potential to interfere with the departmental mission."

Miami-Dade County employees are required to obtain approval from their department directors/supervisors prior to engaging in outside employment. *See* Section 2-11, Miami-Dade Code; County Administrative Order 7-1.1. Directors/Supervisors may request an opinion from the Miami-Dade County Ethics Commission regarding conflicts of interest in outside employment. *See* INQ 19-101; INQ 13-28.

You have relayed that you have obtained permission from the MDPD Director to engage in outside employment as a police practices consultant.

In determining whether a conflict of interest might exist regarding outside employment, the Ethics Commission considers several factors, one of which is whether there is similarity in public and private duties.

In this case, your duties as a Police Major and Director of the MDPSTI and your outside employment duties as a police practices consultant do not appear to create a prohibited conflict of

interest. Because you will not accept retainer or matters occurring in Miami-Dade County and additionally will not accept retainer in any criminal matters where a police officer has been accused of illegal use of force, then there does not appear to be any notable overlap in the position duties and therefor, again, no indication that a prohibited conflict of interest exists.

The Ethics Commission also considers whether in proposed outside employment the employee will be interacting with other County employees, or similar client or constituent communities.

In this case, there does not appear to be a discernable or predictable engagement with County employees or constituent communities that will arise from your work as a police practices consultant. Principally, because you have committed to not engage in any outside employment in matters occurring in Miami-Dade County and additionally will not accept retainer in any matter where a police officer has been accused of illegal use of force.

Nevertheless, you must abide by certain limitations and cautions outlined below to avoid a prohibited conflict of interest or otherwise run afoul of the provisions contained in the County Ethics Code:

- You may not use County time or resources in your outside employment. *See* Section 2-11.1 (g), Miami-Dade County Ethics Code; INQ 19-123; INQ 20-43.
- More specifically, you shall not engage in activities that relate in any way to your outside employment during your County work hours, including phone calls, or any other communication and/or use of County resources (including but not limited to phones, copiers, computers, fax machines, County computer programs, computer licenses purchased by the County, County vehicles, in connection with your outside employment, even after work). *See* Sections 2-11.1 (j) and (g), Miami-Dade County Ethics Code; AO 55, AO 7-1; INQ 05- 29, and INQ 15-240.
- You are prohibited from disclosing and/or using any confidential and/or proprietary information acquired as a result of your County employment to derive a personal benefit, or a benefit for BT its clients or service recipients. If any MDPSTI training materials are proprietary, then you may not use them in your outside employment, or at a minimum, you must follow the same procedures to secure approval for the use as is required of nonemployees. *See* Sections 2- 11.1(h) and (g), Miami-Dade County Ethics Code.
- You may not exploit your County position to secure special privileges or exemptions for yourself, BT, or its clients or service recipients. *See* Section 2- 11.1(g), Miami-Dade County Ethics Code.
- You may not represent BT before any County board or agency. *See* Section 2- 11.1(m)(1), Miami-Dade County Ethics Code; RQO 04-173.

- You have a continuing duty to obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment and you must additionally file an Outside Employment Statement with the County's Elections Department by noon on July 1st of each year. *See* Section 2-11.1(k)(2), Miami-Dade County Ethics Code, or a comparable State of Florida required financial disclosure if you are a state reporting individual because of your position or rank.

Conclusion:

Based on the facts as you have presented them, there does not appear to be a conflict of interest under the County Ethics Code that would prevent you from engaging in outside employment as a police practices consultant.

However, you must be mindful of the limitations imposed on your outside employment by the County Ethics Code as detailed above.

Also, because of the unique and sensitive work that is performed by police officers and your rank and position in the MDPD, you must be additionally sensitive to any outside employment engagements that may conflict with internal police policies.

While this agency does not have the jurisdiction to interpret or apply internal departmental policies, we are available to consult with you and police legal advisors if there is any question that may arise regarding the interplay between Ethics Code provisions and internal department rules and policies.

Finally, this opinion is limited to the facts as you presented them to the Commission on Ethics, is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

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.