

MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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March 15, 2023

Via Electronic Mail Only:
aramireziii@mdpd.com

Mr. Alfredo Ramirez III
Director
Miami-Dade Police Department
9105 Northwest 25th Street
Doral, Florida 331721

Re: INQ 2023-28, Section 2-11.1(g), County Ethics Code, Exploitation of Official Position,
Candidacy for Public Office

Dear Director Ramirez:

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 County employment and candidacy for public office.

Facts:

You are a sworn law enforcement officer and the Director of the Miami-Dade Police Department. 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 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 the Director of the Miami-Dade County Police Department. You would also like to understand your political rights and any limitations imposed by the County Ethics Code.

Issue:

Whether a conflict of interest exists regarding your County employment as the Director of the Miami-Dade Police Department and your candidacy for Sheriff of Miami-Dade County.

Discussion:

1. Prohibitions on Running for Public Office

The County Ethics Codes does not prohibit a County employee or appointed official from engaging in political activities outside the workplace or from running for elected office.³ However, there are provisions of local and state law that apply to County employees or appointed officials who are contemplating elected public office.

The Miami-Dade Charter requires a County employee or appointed official who qualifies as a candidate for certain Miami-Dade County elected offices to take a leave of absence from his public position.⁴ While this limitation does not appear to apply to candidates for Sheriff of Miami-Dade

the with the elections qualifying officer. Thereafter, the candidate must file a Statement of Candidate, again, with the qualifying officer.

³ Section 2-11.1, Miami-Dade Code

⁴ Section 1.05 (c), Miami-Dade Charter (Any appointed official or employee of Miami-Dade County who qualifies as a candidate for election to the office of Miami-Dade County Commissioner, Miami-Dade County Mayor, Miami-Dade County Clerk of Circuit Court, or Miami-Dade County Property Appraiser 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. If the candidate is not elected, he or shall immediately be reinstated to his or her former position.)

See also 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.)

County, this agency does not have the authority to interpret that provision, as it is not contained in the County Ethics Code.⁵

Florida's *resign-to-run* law imposes restrictions on elected or appointed local county officers who have authority to exercise sovereign power who are qualifying for one or more offices, if the terms of office or any part thereof run concurrently with each other.⁶ There are additional specific provisions that apply to police officers or deputy sheriffs who are seeking to qualify for an elected office that is held by a person that has supervisory authority over the candidate police officer or deputy sheriff.⁷ Again, while these provisions do not appear to apply to you, this agency does not have the authority to interpret that provision, as it is not contained in the County Ethics Code.

2. Limitations on Use of Official Position

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.⁸ As such, any political campaigning must occur outside 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.

⁵ Section 2-1072, Miami-Dade Code, Powers, and Duties of the Ethics Commission (The Ethics Commission shall be empowered to interpret and render advisory opinions regarding Code of Ethics Ordinances, Conflict of Interest Ordinances, Lobbyist Registration and Reporting Ordinances, Ethical Campaign Practices Ordinances, and Citizens' Bills of Rights.)

See also 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.)

⁶ *See generally* Section 99.012, Florida Statutes

⁷ Section 99.012(5), Florida Statutes (A person who is a subordinate officer, deputy sheriff, or police officer must resign effective upon qualifying pursuant to this chapter if the person is seeking to qualify for a public office that 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.)

⁸ *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 purpose of interfering with an election or a nomination of office or coercing or influencing another person's vote or affecting the result thereof.")

Specifically, the employee may not use his or her public position or any County resources, in any way, in support of the campaign.⁹ 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.¹⁰

Moreover, while most county employees will not regularly communicate with the general public, some who hold positions of significant authority, like department heads, may be called upon to communicate with the general public in the same manner as elected officials. Consequently, the same limitations that apply to incumbent elected officials who are running for public office, will apply to very senior employees that are also running for office. The employee candidate should use due diligence and make all efforts to avoid any blurring of the lines and not use his or her public communications, necessary to public position, as electioneering communications. Likewise, the employee candidate should not use public forums available to him or her for partisan political speech.¹¹

In abundance of caution, and cognizant of a law enforcement officer's unique responsibilities and position requirements, a sworn law enforcement 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. This admonition when applied to a police chief or director extends to any matter in which the police department, or any of its officers, is engaged.¹²

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 the Director of the Miami-Dade Police Department.

You should exercise caution regarding the limitations placed on County employees engaging in political campaign activities as referenced. Because of the significant and unique position that you

⁹ INQ 15-26; INQ 16-21; and INQ 18-200

¹⁰ RQO 05-06; INQ 18-232; and INQ 17-49

See also Section 104.31, Florida Statutes (Florida's "Little Hatch Act" provides that no state, county or municipal employee or officer shall use his or her official authority or influence to coerce another person's vote, or to coerce directly or indirectly to contribute any money or thing of value for political purposes.)

¹¹ *See generally* INQ 19-129 and ethics opinions cited therein.

¹² INQ 2022-149

hold as a sworn law enforcement officer and as the Director of the Miami-Dade County Police Department, then you should be even more cautious regarding the use of public resources for electioneering or political campaign purposes. You should likewise be vigilant that when seeking support, including campaign endorsements or contributions, that you avoid even the appearance that you are using your authority and position to influence employees of the Miami-Dade Police Department or the public.

As regards the use of public resources to communicate with the general public as a police department director, you should exercise the same cautions that incumbent elected officials do when running for election.

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

While other County ordinances and state statutes are referenced, including those relating to leave of absence from public position upon qualifying for office, any comment or citation regarding local or state laws is included for informational purposes only.

You may wish to consult with the County Attorney's Office regarding interpretation of those sections of the Miami-Dade Code that are not contained in the Ethics Code. Questions regarding state ethics laws may be addressed to the Florida Commission on Ethics and those relating to restrictions on running for public office may be referred to Attorney General of Florida who may opine regarding the application of Florida's resign-to-run law.

Thank you again for consulting with the Ethics Commission and please do not hesitate to contact me directly should you require any additional assistance.

Sincerely,

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

Jose J. Arrojo
Executive Director

cc: COE Legal Staff

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.