



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

Overtown Transit Village North  
701 Northwest 1<sup>st</sup> Court · 8<sup>th</sup> Floor · Miami, Florida 33136  
Phone: (305) 579-2594 · Facsimile: (305) 579-0273  
Website: [ethics.miamidade.gov](http://ethics.miamidade.gov)

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### MEMORANDUM

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**TO:** Brian Ballou, Information Officer  
Miami-Dade Police Department  
  
Lt. Olenka Ryan-Guerra  
Miami-Dade Police Department

**FROM:** Susannah Nesmith, Staff Attorney  
Miami-Dade Commission on Ethics and Public Trust

**SUBJECT:** INQ 2024-02, Section 2-11.1(g) Exploitation

**DATE:** January 3, 2024

**CC:** All COE Legal Staff

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Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding your work producing stories about Miami-Dade Police Department (“MDPD”) personnel.

#### Facts

You are employed by MDPD as an information officer. Your work entails producing stories about MDPD personnel, both sworn and civilian, focusing on noteworthy aspects of their work, but also interesting aspects of their lives outside of work. Examples of prior stories you have produced include a feature on a patrol officer who has a successful side career as a Mixed Martial Arts competitive fighter and a piece on MDPD’s two nationally competitive police softball teams. Your stories are posted on MDPD’s official website, sometimes included in a periodic MDPD newsletter, and promoted on official MDPD social media accounts, including the ones you maintain.

#### Issue

Whether any prohibited conflict of interest may exist if you produce stories about private businesses MDPD staffers run or work for outside of their County jobs.

## Analysis

Under Section 2-11.1 (g) of the County Ethics Code, no Miami-Dade County employee is permitted to “use his or her official position to secure special privileges or exemptions for himself or herself or others.” The Commission has interpreted this section, titled “Exploitation of official position prohibited,” to prohibit County or municipal employees from providing free advertising on government outlets to outside entities. For example, City of North Miami Beach employees were not allowed to provide free advertising on the City’s website for local businesses as part of a campaign to encourage residents and visitors to patron North Miami Beach businesses. *See* INQ 09-134. In that case, the opinion noted that even though the goal of the proposed program was laudable – highlighting local businesses – it was not permitted under Section 2-11.1 (g) because the code specifically prohibits official actions that secure special privileges for the employee who takes the actions, *or for another*.

Just as an MDPD employee would not be permitted to use his position or his access to MDPD’s website to promote his private business, you are not permitted to promote that same employee’s private business on the department website. *See also* RQO 12-05 (a municipal mayor was not permitted to use his elected title in advertisements for his law firm); INQ 16-34 (a municipal commissioner could use her elected title in a resume or campaign literature, but not in an advertisement for her private real estate business); and INQ 03-85 (a County employee was not prohibited from advertising using a County outlet, but must ensure that he was not receiving any special benefit or discount not available to the general public).

Here, content that you produce and post on the MDPD website that highlights a private business, whether your own or that of another MDPD employee, would violate Section 2-11.1 (g) of the County Ethics Code because it would provide a special benefit – free advertising - to one business that is not available to the general public.

## Opinion

Based on the facts presented here and discussed above, you are not permitted to produce and post content about the private businesses that MDPD employees own or work for because highlighting those businesses would constitute free advertising not available to the general public.

This opinion is based on the facts presented. If these facts change, or if there are any further questions, please contact the above-named Staff Attorney.

Other conflicts may apply based on directives from MDPD or under state law. Questions regarding possible conflicts based on MDPD directives should be directed to MDPD or the Mayor’s Office. For an opinion regarding Florida ethics law, please contact the Florida Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>.

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 Commission on Ethics 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 this is an informal opinion, covered parties who 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.