



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Peter Judge, Police Officer
Miami-Dade Police Department

Antonio Rodriguez, Police Lieutenant
Miami-Dade Police Department

FROM: Nolen Andrew Bunker, Staff Attorney
Commission on Ethics and Public Trust

SUBJECT: INQ 2024-151, Section 2-11.1(j), Conflicting employment prohibited.

DATE: September 9, 2024

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust (“Ethics Commission”) and requesting our guidance regarding possible conflicts of interest in Mr. Peter Judge’s proposed outside employment.

Facts

Mr. Peter Judge is currently employed by the Miami-Dade Police Department (“MDPD”) as a Police Officer. His job duties primarily include serving as the Community Outreach Unit Officer assigned to the Village of Palmetto Bay. In that role, he engages with the community to further the law enforcement function of MDPD and teaches the Drug Abuse Resistance Education (“D.A.R.E.”) program in local schools.

Mr. Judge advised that he wishes to engage in outside employment as a consultant with Patriot Crime Prevention Services LLC (“Patriot”). Patriot is a Florida limited liability company that provides security assessment services. Mr. Judge advised that, to his knowledge, Patriot is not a County vendor.

With regard to his work for Patriot, Mr. Judge stated that his primary responsibilities will be to perform security assessments for residences and businesses, which include evaluating the subject location for proper security cameras, locks, lighting, and other security measures. He elaborated that Patriot anticipates increased demand for these services in light of the enactment by the Florida

legislature of House Bill 837¹ in 2023, which, among other things, created a presumption against liability for owners and principal operators of multifamily residential units who have certain specified security measures and an assessment ensuring the same by January 1, 2025. *See* Fla. Stat. § 768.0706. Mr. Judge further advised that his anticipated job duties with Patriot will include crime deterrence and safety training to employees of these multifamily residences and businesses.

Additionally, Mr. Judge advised that his proposed outside employment will only be on the weekends with occasional evening work, and thus will occur outside of the times and hours that he is expected to perform his duties as a Police Officer for MDPD. He advised that, as part of his proposed outside employment, he will not be required to encounter the same or similar people or entities as in his County position because he will not accept work assignments for Patriot located in the Village of Palmetto Bay. He further stated that he will not use the same or similar resources in his proposed outside employment as used in his County work and that he does not have access to non-public information that is, or could be, relevant to his proposed outside employment. Finally, he stated that his position with MDPD does not involve the recruitment or management of County vendors or contractors.

Issue

Whether any prohibited conflict of interest may exist between Mr. Judge's County employment and his proposed outside employment as a consultant with Patriot.

Analysis

The Miami-Dade County Conflict of Interest and Code of Ethics ordinance ("County Ethics Code") prohibits County employees from accepting outside employment, "which would impair his or her independence of judgment in the performance of his or her public duties." County Ethics Code § 2-11.1(j); *see also* County Ethics Code § 2-11.1(k). Additionally, Miami-Dade County Administrative Order ("AO") 7-1 provides that, "[u]nder 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."

County employees are required to obtain approval from their department director prior to engaging in outside employment. *See* AO 7-1. Departmental directors and their subordinate supervisors may request an opinion from the Ethics Commission regarding any potential conflict of interest concerning the proposed outside employment. *See* INQ 21-111; INQ 19-101. Department directors and their subordinate supervisors have the discretion to deny a request for outside employment if they determine that, at any time, the proposed outside employment would be contrary, detrimental, or adverse to the interests of the County or the employee's department. *See* RQO 16-02; RQO 00-10; INQ 13-28.

Multiple factors are considered when evaluating whether outside employment is conflicting, including similarity of duties with the employee's County duties, contact with the same or similar

¹ The engrossed and enrolled version of House Bill 837, as enacted by the Florida Legislature, is available at: <https://www.flsenate.gov/Session/Bill/2023/837/BillText/er/PDF>.

entities (e.g., similar personnel, clients, suppliers, or subcontractors) in both the employee's County position and proposed outside employment, overlapping work hours, use of County resources in the outside employment, and the management of County vendors who are also involved in the proposed outside employment. *See* RQO 17-01.

In practice, a Police Officer working for the Homestead Police Department could engage in outside employment with a private towing company contracted to provide towing services to the City of Homestead, provided that he avoided involvement in any disputes that might occur between citizens whose cars have been towed by the towing company and provided that he abided by certain other restrictions. *See* RQO 05-95. Additionally, a part-time Console Security Specialist working for the Miami-Dade Internal Services Department whose job responsibilities included monitoring building alarms and cameras could engage in outside employment as a Security Officer with a private security services company that did business with the County without giving rise to a prohibited conflict of interest, provided that his outside employer did not provide security services at the facility at which he worked and his job duties did not otherwise involve interaction with or supervision of the contract with his outside employer or its employees. *See* RQO 16-02.

Here, based on the information provided at this time, **it appears to be unlikely that the type of outside employment in which Mr. Judge is seeking to engage would impair his independence of judgment in the performance of his County duties for MDPD.** This is because there does not appear to be overlap between his public duties and his proposed outside employment: his outside employment will be performed outside of his County hours; he will not come into contact with the same persons or entities involved in his County work because he will not engage in any work with his proposed outside employment in the Village of Palmetto Bay; he will not use the same resources in his proposed outside employment as used in his County work due to the differing nature of the work; and, he will not have access to non-public information as part of his County work that is, or could be, relevant to his proposed outside employment because his public outreach efforts on behalf of MDPD are unrelated to security assessment work conducted outside of the Village of Palmetto Bay. *See* RQO 17-01 (discussing multiple factors to consider when evaluating whether outside employment is conflicting); RQO 16-02; RQO 05-95. **However, insofar as Mr. Judge may come into contact with individual clients in his proposed outside employment in the course of his County duties for MDPD, or vice versa, he should avoid involving himself unless public safety is endangered.** *See* RQO 05-95.

Additionally, in light of Mr. Judge's position with MDPD as Community Outreach Unit Officer assigned to the Village of Palmetto Bay, wherein he is called upon to regularly communicate with the general public, he should diligently avoid any blurring of the line and not use his public communications to promote, support, or otherwise advocate for his proposed outside employer. *See* INQ 23-28 (advising the MDPD Director to take special care to avoid electioneering activity in his campaign for Sheriff of Miami-Dade County in light of his public position).

Finally, Mr. Judge should be mindful that, while employed by MDPD as a Police Officer, work as an off-duty police officer is considered outside employment only if the third party directly pays the officer. *See* INQ 03-25. Instead, if the employing police department pays the officer for his/her off duty work, then the off-duty work is not considered outside employment. *See* INQ 03-16.

Opinion

Based on the facts presented here and discussed above, Mr. Judge would not have a conflict of interest between his position with MDPD as a Police Officer and his proposed outside employment as a consultant with Patriot.

However, Mr. Judge is subject to the following limitations if he is granted permission to engage in his proposed outside employment with Patriot:

- He may not engage in activities that relate in any way to his outside employment during his scheduled work hours (including phone calls, text messages, e-mails, or other communications) and he may not use County resources (including, but not limited to, phones, copiers, computers, fax machines, and County vehicles) in connection with his outside employment, even after work. *See* County Ethics Code § 2-11.1(g); AO 5-5, AO 7-1; INQ 20-43; INQ 19-123; INQ 15-240.
- He may not exploit his County position to secure special privileges or exemptions for himself and/or for Patriot or its clients. *See* County Ethics Code § 2-11.1(g). **Specifically, he may not offer his or Patriot's security assessment services to anyone during County working hours, including members of the public, co-workers, and other County employees.** *See* INQ 23-28; INQ 19-101. Furthermore, in light of the particular public position that he holds in the Village of Palmetto Bay, he should not accept any work assignments from Patriot that are located in the Village to avoid any potential appearance of impropriety.
- He may not disclose and/or use any confidential and/or proprietary information acquired because of his County employment to derive a personal benefit, or for the benefit of Patriot or its clients. *See* County Ethics Code § 2-11.1(h).
- He may not represent Patriot before any County board or agency. *See* County Ethics Code § 2-11.1(m)(1); RQO 04-173. While it does not appear that lobbying activities are a part of his potential activities as a consultant for Patriot, it is important to note that he would be prohibited from doing any such activities on behalf of Patriot or its clients.
- He must obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment with his department director, and **he must file an Outside Employment Statement² with the County's Elections Department³ by noon on July 1st of each year for the prior year's outside employment regardless of whether**

² Mr. Judge can find the required form online at: <https://www.miamidade.gov/elections/library/forms/outside-employment-statement.pdf>.

³ A proposed ordinance (Miami-Dade Legislative Item File Number: 241559) pending before the Miami-Dade Board of County Commissioners will, if approved, require that the Outside Employment Statement be filed with the Ethics Commission, not the County's Elections Department.

he made a profit or not in his outside employment. *See* County Ethics Code § 2-11.1(k)(2).

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 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.