

The State of South Carolina



Office of the Attorney General

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September 24, 1985

J. P. Strom, Chief
South Carolina Law
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Dear Chief Strom:

In a letter to this Office you questioned whether a police officer, a highway patrolman, or other law enforcement officer may be licensed or registered under this State's Private Detective and Private Security Agencies Act, Section 40-17-10, et seq., of the Code. In a telephone conversation with Ms. Pat Murphy at your agency, I was advised that SLED is questioning whether any law enforcement officer may be an owner, whether singly or as a co-owner, of a private detective or private security agency which is licensed by SLED. Also, you are questioning whether any law enforcement officer may be registered as a private detective or private security guard in the situation where such an individual would be employed by a licensed private detective or private security agency. This opinion, however, should not be construed in any manner as pertaining to those situations when regular law enforcement officers engage in off-duty private jobs or "moonlight" consistent with the provisions of Sections 23-24-10 et seq. of the Code. Such off-duty work is specifically authorized by such statutes. Also, pursuant to Section 40-17-150(5) of the Code, regular law enforcement officers are not required to be registered by SLED when accepting private employment on an individual contractual basis.

REQUEST LETTER

Continuation Sheet Number 2
To: Chief J. P. Strom
September 24, 1985

April This Office in two previous opinions dated March 11, 1983 and ~~August~~ 21, 1981 dealt with the question of whether a state constable or chief of police could also be licensed or registered by SLED to engage in the private detective or private security guard business. The April 21, 1981 opinion determined that the responsibilities of a chief of police and private detective or private security guard are similar. The opinion noted that an individual holding such positions would be "... performing substantially similar duties at certain times for the public interest and at other times for a more narrow private interest...." The March 11, 1983 opinion, which dealt with the specific question of whether the owner of a private detective or private security agency could be commissioned as a state constable, acknowledged the fact that two separate interests would be involved in such a situation, i.e., one private when an individual looks out for the interests of a private employer, and one public when an individual serves as a regular law enforcement officer. The opinion, consistent with the earlier 1981 opinion, referenced that in such a situation "... all too often, the interests of the public and those of an individual private citizen conflict." Both opinions reasoned that the public interest would not be served if individuals with such law enforcement authority also engaged in private detective or private security guard work. Also, both opinions cited possible conflicts with several provisions of this State's Ethics Act, Sections 8-13-410 et seq. of the Code

The State Ethics Commission in an opinion dated May 17, 1983 also advised against a licensed private detective or private security guard being commissioned as a state constable. The opinion noting a possible conflict with Section 8-13-440 in such a situation, determined that conceivably as a state constable an individual could "... have access to official information of a confidential nature, a benefit not available to other private practitioners."

Consistent with the above referenced opinions, in light of the possible conflict of interest, it would not appear to be in the public interest for a law enforcement officer to be an owner of a private security or private detective agency licensed by SLED. Also, for the same reasons, SLED should not register a

Continuation Sheet Number 3
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law enforcement officer as a private detective or private security guard.

If there are any questions, please advise.

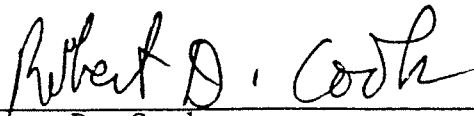
Sincerely,



Charles H. Richardson
Assistant Attorney General

CHR/an

REVIEWED AND APPROVED BY:



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