

# OFFICE OF THE ATTORNEY GENERAL



94-00159

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ATTORNEY GENERAL  
STATE OF ALABAMA

APR 28 1994

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Honorable David C. Laney  
Sheriff, Cullman County  
500 2nd Avenue, S.W.  
Cullman, AL 35055

Sheriffs - Deputies -  
Investigations - Private Work

Under these facts, a deputy sheriff may not obtain outside employment to investigate criminal matters, nor should the deputy sheriff in any way place himself or his business in a position that would pose a conflict of interest or the potential for a conflict of interest with his duties as a deputy sheriff. Under these facts, a deputy sheriff may not accept compensation from a private source for investigating criminal activity during his off-duty hours.

Dear Sheriff Laney:

This opinion is issued in response to your request for an opinion from the Attorney General.

## QUESTIONS NO. 1 AND 2

If a deputy sheriff is approached by representatives of a public or private utility (water board) and the deputy is presented with allegations of criminal activity related to the utility, may the

deputy (without prior approval of the sheriff or the chief deputy) investigate the allegations off duty without filing a written complaint of the allegations of criminal activity? May he receive compensation from the utility or its representative(s) for the investigation?

#### FACTS AND ANALYSIS

In this situation, it appears that the work in question would be within the jurisdiction of the sheriff for whom the deputy works. A deputy sheriff may not investigate allegations of criminal activity while off duty for a private party for compensation.

An off-duty deputy sheriff may engage in the private business of providing investigative services where such services are limited to civil matters. Attorney General's opinion to Sheriff James B. Johnson, dated November 6, 1989, A.G. No. 90-00031. We have also held that an off-duty police officer may do civil investigative work for compensation. Attorney General's opinion to Mayor John Blackwell, dated February 16, 1990, A.G. No. 90-00149. However, a law enforcement officer may not do criminal investigative work while off duty for private pay. As the Attorney General wrote in his opinion to Sheriff James B. Johnson, supra, "the investigative business of the deputy sheriff should not be involved in the investigation of criminal matters or cases. Furthermore, the deputy sheriff should in no way place himself or his business in a position that would pose a conflict of interest or the potential of a conflict of interest with his duties as deputy sheriff."

We note that the legislature has empowered municipalities to employ deputy sheriffs as part-time police officers. Code of Alabama 1975, § 11-43-16. However, the Attorney General has held that personnel rules or regulations may prohibit a deputy sheriff from accepting such employment. Attorney General's opinion to Roger Davis, dated October 20, 1993, A.G. No. 94-00022. The Attorney General has issued opinions cautioning deputy sheriffs who are employed in other capacities that their other duties may in no way conflict with their duties as deputy sheriff. Attorney General's opinion to James B. Johnson, above. Attorney General's opinion to Roger Davis, above. Likewise, the sheriff may promulgate a policy prohibiting his deputies from accepting

outside employment or may require them to comply with the sheriff's policy concerning such employment.

Many sheriffs and law enforcement agencies have policies requiring approval of outside employment in order to avoid potential conflicts of interest. A law enforcement officer or deputy sheriff who obtains outside employment and becomes aware of criminal activity should, in accordance with policy, file a written report or complaint with his office.

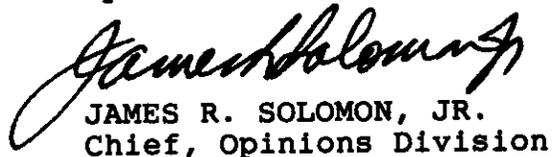
CONCLUSION

Under these facts a deputy sheriff may not obtain outside employment to investigate criminal matters, nor should the deputy sheriff in any way place himself or his business in a position that would pose a conflict of interest or the potential for a conflict of interest with his duties as a deputy sheriff. Under these facts, a deputy sheriff may not accept compensation from a private source for investigating criminal activity during his off-duty hours.

I hope this sufficiently answers your questions. If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

JIMMY EVANS  
Attorney General  
By:

  
JAMES R. SOLOMON, JR.  
Chief, Opinions Division

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