Ms. Mary Tremelling  
Coordinator  
Coosa DARE Program  
1050 Jefferson Street  
Alexander City, Alabama 35010

Conflict Of Interests/ Off-Duty  
Police Officer Contracting With  
Another Agency On His Day Off.

Use Of Office For Personal Gain/  
Off-Duty Police Officer Contracting  
With Another Agency On His Day  
Off.

A law enforcement officer may  
contract with another law  
enforcement agency to provide  
services on his day off.

Dear Ms. Tremelling:

The Alabama Ethics Commission is in receipt of your request for an advisory opinion of this Commission, and this opinion is issued pursuant to that request.

QUESTION PRESENTED

May a police officer from one police department contract with another law enforcement agency to provide services to that agency during his off-time?
FACeTS AND ANALYSIS

The Coosa County Sheriff’s Department plans to implement a DARE (Drug Abuse Resistance Education) Program in the Coosa County Schools beginning in January, 1996. However, the County does not have an officer who can be certified at this time. They have requested and received permission from the Alabama DARE Training Center to contract with another agency to provide the DARE officer for Coosa County.

The Dadeville Police Department has agreed to provide an officer for this. The day that the Dadeville Police Officer will be providing services to Coosa County will be his day off from the Dadeville Police Department.

The Alabama Ethics law, Code of Alabama, 1975, Section 36-25-1(24) states:

"PUBLIC EMPLOYEE. Any person employed at the state, county, or municipal level of government or their instrumentalities, including governmental corporations and authorities, but excluding employees of hospitals or other health care corporations including contract employees of those hospitals or other health care corporations, who is paid in whole or in part from state, county or municipal funds. For purposes of this chapter, a public employee does not include a person employed on a part-time basis whose employment is limited to providing professional services other than lobbying, the compensation for which constitutes less than 50 percent of the part-time employee’s income."

Section 36-25-1(8) states:

"CONFLICT OF INTEREST. A conflict on the part of a public official or public employee between his or her private interests and the official responsibilities inherent in an office of public trust. A conflict of interest involves any action, inaction, or decision by a public official or public employee in the discharge of his or her official duties which would materially affect his or her financial interest or those of his or her family members or any business with which the person is associated in a manner different from the manner it affects the other members of the class to which he or she belongs."

Section 36-25-5(a) states:

"No public official or public employee shall use or cause to be used his or her official position or office to obtain personal gain for himself or herself, or family member of the public employee or family member of the public official, or any business with which the person is associated unless the use and gain are otherwise specifically authorized by law."
Personal gain is achieved when the public official, public employee, or a family member thereof receives, obtains, exerts control over, or otherwise converts to personal use the object constituting such personal gain."

Section 36-25-2(b) states:

"It is also essential to the proper operation of government that those best qualified be encouraged to serve in government. Accordingly, legal safeguards against conflicts of interest shall be so designed as not to unnecessarily or unreasonably impede the service of those men and women who are elected or appointed to do so. An essential principle underlying the staffing of our governmental structure is that its public officials and public employees should not be denied the opportunity, available to all other citizens, to acquire and retain private economic and other interests, except where conflicts with the responsibility of public officials and public employees to the public cannot be avoided."

Section 36-25-5(c) states:

"No public official or public employee shall use or cause to be used equipment, facilities, time, materials, human labor, or other public property under his or her discretion or control for the private benefit or business benefit of the public official, public employee, any other person, or principal campaign committee as defined in Section 17-22A-2, which would materially affect his or her financial interest, except as otherwise provided by law or as provided pursuant to a lawful employment agreement regulated by agency policy."

The Alabama Ethics Commission has repeatedly ruled that a public employee or official can perform services during their off-time, so long as no state, county, or municipal funds, supplies, personnel, or time are used in so doing.

Under the facts presented to the Ethics Commission, it would be proper for a Dadeville police officer on his off-days from the Dadeville Police Department to work for the Coosa County DARE Program as the DARE Officer; provided, the above mentioned guidelines are followed.
CONCLUSION

A law enforcement officer may contract with another law enforcement agency to provide services on his day off.

The guidelines having been previously issued by the Ethics Commission, concerning this question are as follows:

1. That no public materials, supplies, or equipment are used unless authorized by written policy and/or law, ordinances or resolutions.

2. That such employment does not interfere with the needs of the public law enforcement agency.

3. That dual compensation is not received for arrests generated as a result of the off-duty employment.

4. That the officer does not use his office or position with the City or County as leverage in obtaining or continuing his moon-lighting relationship, and

5. That all state, county, and municipal laws applicable to the use and possession of firearms by a law enforcement officer are observed.

AUTHORITY

By 4 - 0 vote of the Alabama Ethics Commission on December 6, 1995.

H. Dean Buttram, Jr.
Chair
Alabama Ethics Commission