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October 6, 2010

ADVISORY OPINION NO. 2010-11

Mr. Burk Williams
Director
Washington County E-911
P.O. Box 1028
435 Hearn Drive
Chatom, Alabama 36518

Conflict Of Interest/Washington County
E-911 Board Employing Wife Of
Washington County Sheriff

The Washington County E-911 Board may employ the wife of the Washington County Sheriff, as the Sheriff's Department does not have oversight of E-911 operations, and the E-911 operates separately from the Washington County Sheriff's Department and the Washington County Commission, even though the Sheriff has one appointment to the E-911 Board.

The Sheriff of Washington County, whose wife may be employed by the Washington County E-911 Board, may continue to make an appointment to the E-911 Board.

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Dear Mr. Williams:

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 the Washington County E-911 Board employ the wife of the Washington County Sheriff, when the Sheriff has an appointment to the E-911 Board?

FACTS AND ANALYSIS

The facts as have been presented to this Commission are as follows:

Washington County E-911 contracts dispatching for several local law enforcement agencies, including the Washington County Sheriff's Department. The E-911 Board is an unrelated entity to the Sheriff's Department or the County Commission. The E-911 Board dispatches for not only the Sheriff's Department, but other local law enforcement agencies.

The Sheriff's Department does not have any oversight of the E-911 operations, but the Sheriff does have an appointment to the E-911 Board.

If employed, the duties of Alene Stringer, the wife of Sheriff Richard Stringer, will include, but not be limited to validating and editing UCR reports for local law enforcement agencies, entering CEU hours for officers into EPOST (sic), assisting officers with EPOST (sic) applications for various academies and other secretarial duties assigned. She will also apply for an AlaCop account and be NCIC certified.

The Alabama Ethics Law, Code of Alabama, 1975, Section 36-25-1(24) defines a public official as:

“(24) PUBLIC OFFICIAL. Any person elected to public office, whether or not that person has taken office, by the vote of the people at state, county, or municipal level of government or their instrumentalities, including governmental corporations, and any person appointed to a position at the state, county, or municipal level of government or their instrumentalities, including governmental corporations. For purposes of this chapter, a public official includes the chairs and vice-chairs or the equivalent offices of each state political party as defined in Section 17-16-2.”

Section 36-25-1(12) defines a family member of the public official as:

“(12) FAMILY MEMBER OF THE PUBLIC OFFICIAL. The spouse, a dependent, an adult child and his or her spouse, a parent, a spouse's parents, a sibling and his or her spouse, of the public official.”

Section 36-25-1(2) defines a business with which the person is associated as:

“(2) BUSINESS WITH WHICH THE PERSON IS ASSOCIATED. Any business of which the person or a member of his or her family is an officer, owner, partner, board of director member, employee, or holder of more than five percent of the fair market value of the business.”

Section 36-25-5(a) states:

“(a) 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 36-25-1(8) defines a conflict of interest as:

“(8) 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(c) states:

“(c) 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.”

Section 36-25-9(c) states:

“(c) No member of any county or municipal agency, board, or commission shall vote or participate in any matter in which the member or family member of the member has any financial gain or interest.”

From the facts as presented, even though the Sheriff does have an appointment to the E-911 Board, the Washington County E-911 Board operates independently of both the Sheriff’s Department and the Washington County Commission. Therefore, there is nothing improper in Ms. Stringer being employed by the Washington County E-911 Board. The question arises due to his wife’s potential employment as to whether or not Sheriff Stringer may continue to make appointments to the E-911 Board.

On February 7, 1996, the Commission rendered Advisory Opinion No. 96-20, which held that:

“A City Council Member whose spouse is employed as a tenured teacher by the City of Athens School System may vote on an appointment to the City School Board.”

On November 20, 1996, the Commission rendered Advisory Opinion No. 96-115, which held that:

“A City Council member, whose spouse is employed as a teacher by the City of Fort Payne School System, may vote on an appointment to the City School Board.”

Based on the facts as provided and the above law, the Washington County E-911 Board may employ the wife of the Washington County Sheriff, as the Sheriff’s Department does not have oversight of E-911 operations, and the E-911 Board is an unrelated entity to the Washington County Sheriff’s Department and the Washington County Commission, even though the Sheriff has one appointment to the E-911 Board.

Further, the Sheriff of Washington County, whose wife may be employed by the Washington County E-911 Board, may continue to make an appointment to the E-911 Board.

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CONCLUSION

The Washington County E-911 Board may employ the wife of the Washington County Sheriff, as the Sheriff's Department does not have oversight of E-911 operations, and the E-911 Board operates separately from the Washington County Sheriff's Department and the Washington County Commission, even though the Sheriff has one appointment to the E-911 Board.

The Sheriff of Washington County, whose wife may be employed by the Washington County E-911 Board, may continue to make an appointment to the E-911 Board.

AUTHORITY

By 4-0 vote of the Alabama Ethics Commission on October 6, 2010.



Linda L. Green
Chair
Alabama Ethics Commission