

Anne Arundel County Ethics Commission

Advisory Opinion

99 - 86

Issue:

Whether county police officers may accept an invitation to a bull roast being held by a local attorney whose practice includes criminal defense work?

Background:

A uniformed county police officer appearing recently in the district court on a case, was handed an invitation by a local attorney, whose practice includes the representation of criminal defendants in the county. The invitation read: "John Doe's"¹ 1st Annual Police Bull Roast - July 3rd - 12-8pm - Come by car or boat! Bring a guest! No children, please. - Free rides home for those who can't pass a PBT or John's field sobriety tests! - Kindly RSVP by June 21st - (phone number) - to give us a head count.

These invitations were being handed out by this lawyer to the uniformed officers that were present in the courthouse.

Discussion:

The Public Ethics Law, §3-106(b), generally prohibits Anne Arundel County police officers from accepting gifts from "controlled donors". A controlled donor is a person who:

- 1) is doing or seeking to do business of any kind with the county;
- 2) is engaged in activities that are regulated or controlled by the county;
- 3) has financial interests that may be substantially and materially affected, in a manner, distinguishable from the public generally, by the performance or nonperformance of any official duty of the employee; or
- 4) is a lobbyist with respect to matters within the jurisdiction of the employee.

One exception to this blanket prohibition permits the acceptance of occasional meals and beverages of modest value as long as:

- 1) the acceptance of the gift would tend to impair the impartiality and independence of the recipient employee; or

¹ "John Doe" is not the real name on the invitation.

- 2) give the appearance of doing so because of the gift's value; or
- 3) the recipient believes, or has reason to believe, that the gift is designed to impair the impartiality and independence of judgment of the recipient employee.

The lawyer hosting this "Police Bull Roast" is a controlled donor in that the lawyer has business that can be substantially and materially affected by the good will of police officers who may perceive themselves to "owe" the lawyer a favor in return for the gift. The value of the gift, (which some officers overheard the lawyer to say was \$20 per person), while modest in and of itself, becomes extremely expensive when offered to all members of the police department, or even to the uniformed officers only.

The ethics commission has previously advised that the gift of a catered lunch to an entire department in the county, given as a "thank you" by a person doing regular business with that department, would not be a meal of "modest value".(IO-98-01). It would be a significant business expense to the donor, with the obvious intent of engendering the department's good will. Seen in this light, it is obvious that the meal is not offered for personal or social reasons, but is designed to facilitate the donor's business relationships in the county. This conclusion is particularly obvious in this case, where the lawyer handed out invitations to uniformed police who were in the court house at the time.

The situation might be different if the bull roast was not designed exclusively or primarily for police officers. If for example, the bull roast invitations were directed to a large gathering of social or personal acquaintances, including one or two police officers, the motivation for the party would be less suspect. But in this case, the recipients are police officers who deal in a professional context with a lawyer on a regular basis.

These potential recipients will also need to consider the appearance of conflict of interest, as well as the actual conflict of interest. Would people be more inclined to seek the services of a lawyer who is perceived to have an "in" with the police department? Would police officers recommend one lawyer over another to citizens who might ask for "a good lawyer"? It is easier to avoid having these questions asked, then it is to answer them credibly.

Conclusion:

Police officers who have or could have professional dealings with a local defense lawyer, may not accept an invitation to an annual police bull roast that is hosted by the lawyer. A gift of a meal offered exclusively or primarily to the police department does not fall within the exception of §3-106(c)(1) as a meal of modest value, and it is in all probability, designed to impair the impartiality and independence of judgment of the recipient police officers.

Date: _____

By: the Anne Arundel County Ethics Commission