

Anne Arundel County Ethics Commission

Advisory Opinion

02-23

Issue:

Whether a private photography studio may take photos of police officers, in uniform, and on the job, for use in an event sponsored by the studio, to raise money for a charitable organization.

Facts:

A private photography studio plans to hold a charitable event for a well-established and respected national charitable organization. The event would be a photographic exhibit titled, "To Serve and Protect - A Photographic Journey". One hundred percent of the proceeds would go to the charitable organization, but the studio hopes to recoup at least some of its expenses by soliciting corporate sponsorships of the event. People who attend the event will pay an admission fee to see the photographs, and will receive a program. The program will include a brief biographical sketch of the photographic subjects and will include the subject's name, title and job description.

The studio would like permission to photograph police officers in Anne Arundel County, in uniform and on the job. Each police officer would have to give permission to have a picture taken, but the photos would become the property of the studio. After the exhibit, the participating officers would be given an opportunity to purchase the photographs in which they are featured.

The studio also contracts with the police department to take pictures of individual officers that may be purchased by the officers, and of special units within the department, for departmental use.

Discussion:

Section 3-104(a) of the Public Ethics Law provides that "an employee may not use the prestige, title, or authority of the employee's office or position for the employee's private gain or the gain of another. The ethics commission has previously concluded that the use of the uniform, police vehicles, and other insignia of the police department, are part of the prestige and authority of a police officer. See, AO-98-23. These items may only be worn or used by authorized personnel and they generate respect.

Individual police officers will not benefit personally from permitting the use of their photographs in the proposed exhibit. However, the charitable organization and the photography studio will receive a gain from the use of police photographs in the exhibit. The charitable organization will receive the proceeds of the exhibit and the studio will receive good publicity, a

charitable or business tax deduction, and the continued good will of a county agency with which it does business. As the studio said in its program for a similar charitable photographic exhibit in 1996,

We hope this evening does two things-- provide the XXXXXXXX
XXXXXX XXXXXXXX some needed funds to continue their important
work and *offer you a pleasant review of our work.* (Emphasis added).

While the ethics commission may applaud the studio's truly good intentions and good deeds, it cannot permit that which is clearly prohibited by the law. The reasons why §3-104 prohibits the police department - or any county department - from participating in the charitable ventures of a private entity are several. In the first place, participation by police officers would reasonably appear to be an endorsement of the charitable organization. When, as in this case, the charitable organization is universally admired, such an endorsement may seem harmless or even admirable. But for every such organization, there is another one whose goals may be questionable, or controversial. Is the police department required to support or endorse those organizations as well? In Advisory Opinion 98-139, the ethics commission said that §3-104(a) prohibited the use of photographs of police officers in uniform or with police vehicles in a candidate's campaign literature. The commission reasoned that this use would appear to be a police department endorsement, as well as a private gain to the candidate. Is the use of photographs of police officers for a "good cause" any different?

The police department and its officers are not commodities. The respect and gratitude that they have earned and they deserve should not be exploited, even by well-intentioned people, for commercial marketing or charitable fund raising. Section 3-104 of the ethics law protects county employees as well as members of the public. By prohibiting the conduct described in this opinion, county officials will not find themselves in the position of choosing how, by whom, and for what purpose its employees will be marketed.

Conclusion:

The ethics commission advises that neither the police department nor police officers may permit the use by a private entity of photographs of police in uniform, or police department vehicles, for commercial purposes or for charitable fund raising activity because such use constitutes the gain of another that is prohibited by §3-104(a) of the ethics law. This prohibition does not mean that police officers may not contribute personally, or participate in fund raising activity in their personal capacities. It means that police officers may only use the prestige, title, and authority of their positions on the job, for the job, and for the benefit of the citizens of Anne Arundel County.

Date:

By: The Anne Arundel County Ethics Commission