

Charitable solicitations by law enforcement officers

Number: INFORMAL

Date: January 13, 1997

The Honorable Jorge Rodriguez-Chomat
Representative, District 114
825 South Bayshore Drive, Suite 1750
Miami, Florida 33131

Dear Representative Rodriguez-Chomat:

You ask whether law enforcement officers may solicit contributions for the local police benevolent association while wearing their uniforms.

According to your letter, a citizen complained that a police officer with the Coral Gables Police Department, while wearing his uniform, was soliciting funds for the local police benevolent association (PBA). As a result of the complaint, the Coral Gables police chief has stopped solicitation efforts by uniformed officers and has indicated that an opinion of this office is needed before the practice may be resumed. You state that the staff of the Division of Consumer Services of the Department of Agriculture and Consumer Services has advised that law enforcement officers may wear their uniforms only when soliciting contributions for the benefit of a specific officer but not for injured police officers as a class.

While questions relating to the interpretation of Chapter 496, Florida Statutes, are generally referred to the Department of Agriculture and Consumer Services in light of that department's duties under that chapter, the following informal comments are offered as an effort to be of some assistance.[1]

Sections 496.401-496.424, Florida Statutes, the Solicitation of Contributions Act (act), imposes restrictions and registration requirements on charitable organizations, sponsors and professional solicitors soliciting funds within this state.[2] Section 496.415, Florida Statutes, which sets forth certain prohibited acts, provides in subsection (11) that it is unlawful to:

"Solicit contributions from another person or organization while wearing the uniform of an emergency service employee or law enforcement officer, or while on duty as an emergency service employee or law enforcement officer, except where the solicitation is for an organization exempt from federal income tax under s. 501(c)(3) of the Internal Revenue Code or except when soliciting contributions to benefit an emergency service employee or law enforcement officer who has been injured in the line of duty or to benefit the family or dependents of an emergency service employee or law enforcement officer who has been killed in the line of duty."

Thus, a law enforcement officer is prohibited from soliciting contributions while wearing his uniform or while on duty unless the solicitation is for a 26 U.S.C. 501(c)(3) organization or to benefit an officer injured in the line of duty or the family or dependents of an officer killed in the line of duty. The exceptions are to be narrowly and strictly construed.[3] Where a statute sets

forth specific exceptions, no other exceptions may be implied.[4] Accordingly, if the local PBA does not fall within one of the specified exceptions to the prohibition against law enforcement officers wearing their uniforms while soliciting contributions, no other exception may be implied and the officers would be subject to the general prohibition.

I trust that the above informal comments may be of some assistance to you.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tgk

[1] See *generally* s. 496.419, Fla. Stat., setting forth the powers and duties of the division regarding the enforcement of the Solicitation of Contributions Act, ss. 496.401-496.424, Fla. Stat.

[2] See ss. 496.404(1), (19), and (22), Fla. Stat., which respectively define "Charitable organization," "Professional solicitor," and "Sponsor" for purposes of the act.

[3] See, e.g., *Samara Development Corporation v. Marlow*, 556 So. 2d 1097 (Fla. 1990) (exceptions in a statute should be narrowly and strictly construed).

[4] See, e.g., *Florida Legal Services, Inc. v. State*, 381 So. 2d 1120 (Fla. 1st DCA 1979) (where Legislature creates specific exceptions to language in a statute, rule that the express mention of one thing implies the exclusion of any other applies to infer that had the Legislature intended to establish any other exceptions, it would have done so clearly and unequivocally).