

**[Advisory Opinion 1995-3]**

March 21, 1995

[Name1 withheld]  
Chief of Police  
2350 Research Boulevard  
Rockville, Maryland 20850-3294

Re: Request for Approval to Participate in Tip-A-Cop Program

Dear [Name1 withheld]:

You have requested approval from the Ethics Commission for the Montgomery County Police Department to participate in the Tip-A-Cop Program in conjunction with Red Lobster Restaurant. The materials you provided describing the program indicate that local police officers spend an evening at the restaurant helping to serve customers and asking customers to contribute to the fundraising effort for the Special Olympics. Among the rules associated with the program is a prohibition against the officers serving alcohol, which is consistent with existing restrictions. You also indicated that the Police Department has participated in the Law Enforcement Torch Run for Special Olympics in the past.

The materials provided by Red Lobster indicate that the restaurant does a good business on the evening which they designate for the Tip-A-Cop program and that the servers usually receive larger tips than usual, despite the additional donations being made to the Special Olympics. The funds that are raised are then divided between the World Games, the local Law Enforcement Torch Run, and the Torch Run Final Leg; all donations are made in the name of Red Lobster.

The pertinent sections of the Ethics Law are as follows:

Section 19A-14 of the Montgomery County Code 1994 provides:

- (a) A public employee must not intentionally use the prestige of office for private gain or the gain of another . . . .
- (b) Unless expressly authorized by the Chief Administrative Officer a person must not use an official County agency title or insignia in connection with any private enterprise.

Section 19A-16 of the Montgomery County Code 1994 provides:

- (a) A public employee must not solicit a gift;

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- (1) from any person who

\* \* \*

(C) owns or operates a business that is regulated by the  
County agency with which the public employee is affiliated

. . . .

\* \* \*

(b) However, a public employee may solicit a gift:

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(3) from any person, during official work hours, while identifiable as a public employee, or at a County agency, for the benefit of a County agency or a nonprofit organization formally cooperating on a program with a County agency if the solicitation is authorized by the County Executive . . . in an order . . . .

This particular program involves cooperation between employees of a County agency and a private enterprise that is operated for profit. Based upon the facts presented and the applicable sections of the Ethics Law, the Ethics Commission must deny the request for the Montgomery County Police Department to participate in the Tip-A-Cop Program with Red Lobster. The nature of the restaurant precludes the establishment of an Executive Order that would permit the solicitation of donations pursuant to Section 19A-16(b)(3) of the Ethics Law, quoted above. Moreover, in light of the representation of Red Lobster that their business increases and profits on the evenings of the program, the participation of police officers would be using the prestige of office for private gain of another.

This decision does not address the Law Enforcement Torch Run in which the department has participated in the past. The Tip-A-Cop Program, however, is prohibited by the Ethics Law, because in the process of collecting funds for a charity, the officers are promoting a non-charitable organization and that private organization then donates the funds in its own name.

If you have any questions regarding this decision, please do not hesitate to contact the Commission.

Sincerely,  
[signed]  
Jay L. Cohen, Chair  
Montgomery County Ethics Commission

cc: Barbara McNally, Executive Secretary, Montgomery County Ethics Commission