



## MONTGOMERY COUNTY ETHICS COMMISSION

**Waiver 22-09-015  
September 27, 2022**

Pursuant to § 19A-12(b)(1)(B) of the Public Ethics Law, a public employee must not be employed by a business that negotiates or contracts with the County agency with which the public employee is affiliated, unless the Ethics Commission grants a waiver. Section 19A-8(b)(3) of the ethic law states that the Ethics Commission may grant a waiver of this prohibition if the Commission concludes that the outside employment will not be likely to create an actual conflict of interest.

### **Relevant Facts**

Eric Mercurio is a Police Officer III in the Special Operations Division at the Montgomery County Police Department (MCPD). He would like to engage in outside employment as an instructor at Combined Systems International (CSI), an entity which manufactures tactical products that are purchased by the Department from distributors of the product. CSI also conducts training in the use of the type of tactical products that it manufactures.

Mr. Mercurio's position with MCPD is in Special Operations assigned to Operational Support, Managed Search Operations, and Decentralized Special Weapons and Tactics (SWAT). Operational Support is designed to organize and provide the legwork for the special operations division. It is in charge of the civil disturbance unit, provides unified training for the division, and assists in coordinating assets for any major event. Managed Search Operations coordinates searches for critical missing individuals. It works closely with patrol and major investigations when any individual is reported missing in the county, specifically when there are critical factors such as dementia, learning disabilities, suspicions of foul play or even just based on age. As a decentralized SWAT Team member, Mr. Mercurio supports the centralized team in any operations which go beyond the ability of the 13-officer unit. He has no contract monitoring responsibilities in his official capacity with MCPD.

Working for CSI, Mr. Mercurio would be acting as an instructor, bringing the CSI training program to law enforcement departments throughout the United States and abroad. Mr. Mercurio teaches CSI's less lethal program, specifically chemical and impact munitions, and flash bang diversionary devices. He is authorized as a master instructor to teach and certify departmental instructors in these munitions. In order to purchase any of these items through any distributor from any manufacturer, a department must prove that they have a certified instructor in their department. This certification applies with respect to other manufacturers of the tactical products, not just CSI. Other manufacturers of tactical gear marketed to law enforcement entities conduct similar training, so CSI's offerings are not the only such classes available to MCPD employees.

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MCPD officers occasionally take training provided by CSI and fees for such training are paid by the department. Trainees are not provided the name of the instructor prior to attending a CSI-led class, and instructors are not provided a class list prior to providing the training.

When CSI determines to hold a class in a specific region, it asks its instructors for their availability to provide the training on that specific day in that specific location. Mr. Mercurio represents that he will not provide any CSI-paid training in Montgomery County, Maryland.

If the MCPD needs a dedicated training session for officers, Mr. Mercurio as a master trainer may provide the training in his official capacity as a Montgomery County police officer, and he will not be conducting the training for CSI.

Mr. Mercurio will not be involved in the sale of products in his role with CSI or have any procurement or contract monitoring responsibilities. In his official capacity with the MCPD, he will not place any orders to distributors for purchase of CSI products. Mr. Mercurio's name may appear on invoices reflecting the purchase of tactical gear made by CSI because someone must be listed as certified trainer in order for the MCPD to purchase the type of gear manufactured by CSI.

Chief Marcus Jones of the MCPD has concurred in the request for a waiver submitted by Mr. Mercurio.

### **Decision**

Pursuant to § 19A-8(b)(3) of the Public Ethics Law, the Ethics Commission may grant a waiver of the prohibition of § 19A-12(b) if the Ethics Commission concludes that the proposed employment is not likely to create an actual conflict of interest. The Ethics Commission grants the requested waiver conditioned on Mr. Mercurio not conducting any CSI training in Montgomery County or being designated by CSI to provide training that is dedicated to or designed specifically for Montgomery County Police. Furthermore, Mr. Mercurio is prohibited from promoting CSI or its products while acting in his official capacity at the MCPD. This waiver is also conditioned on Mr. Mercurio neither making referrals as a County employee to CSI nor soliciting other County employees to make such referrals. The approval of this waiver is conditioned on the facts on which the waiver is based remaining unchanged.

The Commission notes that while 19A-12(b)'s prohibition is waived, the other provisions of the ethics law are not, including those prohibiting an employee from working on official matters relating to the outside employer.

For the Commission:



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Susan Beard, Chair