

Moonlighting  
Police Officers

Charter Section 2604(c)(5)

**Advisory Opinion No. 98-4**

The Conflicts of Interest Board (the "Board") has received a request for an opinion from the New York City Police Department (the "NYPD") as to whether, consistent with the conflicts of interest provisions of Chapter 68 of the City Charter, NYPD police officers may participate in the NYPD's Paid Detail Program (the "Program") as part-time security guards for private firms and may wear their uniforms during the course of that employment.

For the reasons discussed below, it is the opinion of the Board that NYPD police officers may participate in the Program and, in so doing, wear their uniforms.

**Background**

The NYPD has advised the Board that the NYPD wishes to establish the Program, under which NYPD police officers would work as part-time security guards

for private firms which have registered with the NYPD.

In performing this security work, the NYPD police officers would be required to wear their police uniforms and bulletproof vests.

Police officers would voluntarily participate in the Program, which would be open to all NYPD police officers regardless of rank, by registering with the NYPD's Paid Detail Unit (the "Unit"). The Unit would administer the Program, including maintaining the lists of both the participating firms and the participating officers. The NYPD would also handle all pay issues for the participating officers, including setting the pay scale. The NYPD would impose an administrative fee on the private firms, in an amount not to exceed the expenses of the Unit.

Police officers wishing to participate in the Program would be placed on the list, initially in order of seniority. Selection for security guard assignments would be based on the officer's position on the list; officers would have no input into their assignments. The NYPD has further advised the Board that police officers would not have regular assignments with any participating firm and would not otherwise be able to establish a regular relationship with any particular

employer.

While participating police officers would be paid as private contractors by the private firms, they would be indemnified by the City when, during the course of a security guard assignment through the Program, they acted within the scope of their City employment, for example, in effectuating an arrest. Thus, any injuries the police officers received while engaging in legitimate law enforcement action would be considered line-of-duty injuries. While on assignment with the Program, police officers would be required to comply with all applicable NYPD rules and regulations, as well as all applicable City, State and Federal rules.

Police Commissioner Howard Safir has advised the Board that the Program is designed to add to the uniformed police presence on the City's streets, a presence that, in his opinion, would have a deterrent effect on unlawful activities. Police Commissioner Safir has further stated that participating police officers could help ensure more orderly conduct at public events.

#### Discussion

The determination as to whether police officers

may participate in the Program falls within the scope of Chapter 68. The framers of Chapter 68 accorded special status to police officers in certain situations. Specifically, Chapter 68 provides that

Section 2604 shall not prohibit:

any member of the uniformed force of the police department from being employed in the private security field, provided that such member has received approval from the police commissioner therefor and has complied with all rules and regulations promulgated by the police commissioner relating to such employment.

Charter Section 2604(c)(5).

The Program's design will permit NYPD police officers to engage in private security work under the supervision and administrative control of the NYPD. All police officers have received permission from Police Commissioner Howard Safir to participate in the Program. However, Commissioner Safir will require all participating officers to wear their official police uniforms and bulletproof vests. Further, the Commissioner will require all police officers to comply with all applicable NYPD rules and regulations while on assignment under the Program.

The Program will be subject to strict administrative controls and has been designed so that police officers will not be able to develop a special

relationship with any private firm. Police officers will be assigned to a different location for each assignment.

The Board notes that the Program offers a substantial benefit to both the NYPD and the City. Utilizing officers through the Program will add to the presence of uniformed officers on City streets. The NYPD anticipates that the use of uniforms will have a deterrent effect on criminal activity, while the use of bulletproof vests will reduce injuries to off-duty officers. The Program has been approved by both the NYPD and the Mayor as being in the interests of the City.

Accordingly, the Board has concluded that the NYPD police officers may participate in the Program and, in so doing, wear their uniforms.

#### Conclusion

Based upon the facts and the particular circumstances of this case, it is the opinion of the Board that NYPD police officers may work as private security officers, in uniform, through the Program. The Board considers requests such as this on a case-by-case basis. Each case presents unique facts and

COIB Advisory Opinion No. 98-4  
April 10, 1998  
Page 6

circumstances and must be considered independently by the Board. Therefore, the Board's decision in this case does not extend to other programs which City

agencies may propose, even those which are similarly designed.

Benito Romano  
Acting Chair

Bruce A. Green  
Jane W. Parver  
Shirley Adelson Siegel

Dated: April 13, 1998