

SUBJECT: DEPUTY SHERIFF SEEKING ELECTION AS CLERK OF COURT

SUMMARY:

A Deputy Sheriff would not be prohibited from remaining in his position while campaigning for the office of Clerk of Court; however, he would be required to follow the provisions of Sections 8-13-765(A), 8-13-1338, and 8-13-1346.

QUESTION:

The Aiken County Sheriff asks the following question:

"Is there any violation of Ethical Conduct Rules for a Deputy Sheriff or Violation of Election Rules, Practices, Etc., to seek the office of Clerk of Court by General Election and remain in his position as Deputy Sheriff during a campaign."

DISCUSSION:

This opinion is rendered in response to a letter dated November 4, 1991, requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the State Ethics Act (Act No. 248 of 1991; Section 8-13-100 et. seq., 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

The State Ethics Commission knows of no reason why a Deputy Sheriff could not continue to serve in his present position while he campaigns for the office of Clerk of Court for Aiken County. He is advised of the following provisions of the State Ethics Act.

Section 8-13-765(A) provides:

(A) No person may use government personnel, equipment, materials, or an office building in an election campaign. The provisions of this subsection do not apply to a public official's use of an official residence.

Section 8-13-1338 provides:

(A) The following persons personally may not solicit, verbally or in writing, a contribution to a candidate:

- (1) a law enforcement officer while in uniform;
- (2) a judge or candidate for judicial office;
- (3) a solicitor, an assistant solicitor, or an investigator in a solicitor's office;
- (4) the Attorney General, a deputy attorney general, an assistant attorney general,

or an investigator in the Attorney General's office.

- (B) The restrictions of subsection (A) on solicitation of contributions do not apply to:
- (1) a candidate soliciting a contribution to his own campaign; or
 - (2) a part-time assistant solicitor.
- (C) A law enforcement officer while in uniform may not solicit a contribution to any political party or candidate.

Section 8-13-1346 provides:

A person may not use or authorize the use of public funds, property, or time to influence the outcome of an election. This section does not prohibit the incidental use of time and materials for preparation of a newsletter reporting activities of the body of which a public official is a member.

Absent any Sheriff's Department policy against involvement in such elections, the State Ethics Commission knows of no reason why the Deputy Sheriff could not campaign on his own time and without utilizing public materials, equipment, facilities or personnel in his campaign. Further, the Deputy Sheriff cannot solicit campaign contributions while in uniform.