



Media Alert

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Sheriff

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For immediate release

WCS SHERIFF TO SEEK ATTORNEY GENERAL OPINION ON VEHICLE USE

Hatch Act and IRS Regulations affirm no usage violations, Board votes otherwise.

(October 21, 2014) — Sheriff Benny Napoleon will continue to seek an opinion from the Attorney General on use of his county-issued vehicle during the 2013 campaign season despite an unprecedented vote by some members of the Wayne County Board of Ethics—**in opposition to federal ordinances and state opinions**. The Board was asked to opine on the matter after the auditor general stated the Sheriff should reimburse the county for charges relating to fuel and personnel. Sheriff Napoleon's counsel, attorney Mark Brewer, argued:

- Sheriffs in Michigan's 83 counties have all conducted themselves in similar manner whether campaigning for re-election or for different office;
- the **Hatch Act deems the activities of his use while a candidate acceptable**;
- **IRS regulations allow** the use given the Sheriff's law enforcement responsibilities;
- the head of the **Michigan Sheriffs Association says no violations have occurred**;
- **no other sheriff in the state's history has been subjected to these measures** despite past and current practices

Brewer stated: **"We are disappointed that the few board members in attendance took this position because there was really no rush to determine the matter. We intend to seek a ruling opinion from the Attorney General since it will affect not only Sheriffs statewide, but other elected officials and Chiefs of Police who conduct themselves in the same manner. We contend the Sheriff has done nothing wrong and has conducted his activities as have previous Sheriffs of Wayne County who have not been subjected to such targeted scrutiny."**

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Although board members in a previous meeting stated the subject matter was “grey” and sought an opinion from outside counsel, the issue was decided with one dissenting opinion—only four of the seven board members were even present which means several key votes were not taken. Discussion of Sheriffs from other jurisdictions conducting themselves in similar fashion was given little weight, as were comments from the head of the Michigan Sheriff’s Association which also failed to sway board members intent on making a swift decision.

“I am not familiar with any counties in the State of Michigan that prohibit or restrict the Sheriffs’ use of their official vehicle.” Jungel further stated **“... the very nature of the job requires the Sheriff to be on call 365 days a year, 24 hours a day. The Sheriff must also be available to respond to calls for service, direct their workforce and respond to the scene immediately from various locations.”**

The Hatch Act deems use of the county vehicle as acceptable given the nature of the Sheriff’s 24-7 recall status as the head of the agency. And, an opinion by the United States Office of Special Counsel supports the language as it applies to local activities in question. IRS statutes further dictate the sheriff’s **vehicle is excluded if the driver is a law enforcement officer, authorized to carry firearms, execute search warrants, make arrests and responds to law enforcement incidents.** The IRS statute goes on to say the only activity not allowed is for the vehicle to be used for vacation.

Prior to Monday’s vote, Sheriff Napoleon received confirmation that Senator Virgil Smith will formally submit the request for an opinion to Attorney General Bill Schuette given that Monday’s action by the board actually affects the actions of all Michigan Sheriffs who use county-issued vehicles. No word yet as to if or when the matter will be addressed by the AG’s office.

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