

## MEMORANDUM

Agenda Item No. 4(N)

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**TO:** Honorable Chairperson Barbara Carey-Shuler, Ed.D.  
and Members, Board of County Commissioners

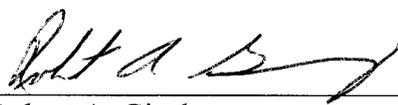
(Public Hearing 4-13-04)  
**DATE:** March 16, 2004

**FROM:** Robert A. Ginsburg  
County Attorney

**SUBJECT:** Ordinance amending  
Section 2-56.1; modifying  
application of ordinance  
to correctional officers

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The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Joe A. Martinez and Commissioner Dorrin D. Rolle.

  
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Robert A. Ginsburg  
County Attorney

RAG/bw



## MEMORANDUM

**TO:** Honorable Chairperson Barbara Carey-Shuler, Ed.D.  
and Members, Board of County Commissioners

**DATE:** April 13, 2004

**FROM:** George M. Burgess  
County Manager

A handwritten signature in black ink, appearing to read "Burgess", written over the printed name of George M. Burgess.

**SUBJECT:** Ordinance Amending  
Section 2-56.1 of the Code  
Modifying Application of  
Ordinance to Correctional  
Officers

This ordinance amending Section 2-56.1 of the Miami-Dade County Code modifying application of ordinance to correctional officers will have no fiscal impact on Miami-Dade County.

The ordinance separates Correctional Officers from Police Officers for the purposes of off-duty hiring. It also clarifies that "Correctional Officers shall not be considered to be acting within the course and scope of their official duties for Miami-Dade County whenever they are performing police work on behalf of any state, county or municipal law enforcement agency other than Miami-Dade County", which may reduce future liability costs for the County.

Fiscal/001804



# MEMORANDUM

(Revised)

TO: Hon. Chairperson Barbara Carey-Shuler, Ed.D. DATE: April 13, 2004  
and Members, Board of County Commissioners

FROM: Robert A. Ginsburg  
County Attorney

SUBJECT: Agenda Item No. 4 (N)

Please note any items checked.

- "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Bid waiver requiring County Manager's written recommendation
- Ordinance creating a new board requires detailed County Manager's report for public hearing
- Housekeeping item (no policy decision required)
- No committee review

Approved \_\_\_\_\_ Mayor

Agenda Item No. 4(N)

Veto \_\_\_\_\_

4-13-04

Override \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

ORDINANCE AMENDING SECTION 2-56.1 OF THE CODE OF MIAMI DADE COUNTY, MODIFYING APPLICATION OF ORDINANCE TO CORRECTIONAL OFFICERS; PROVIDING FOR ENFORCEMENT, PROVIDING SEVERABILITY, INCLUSION IN THE CODE AND AN EFFECTIVE DATE

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

Section 1. Section 2-56 of the Code of Miami-Dade County, Florida, is hereby amended as follows:<sup>1</sup>

**SPECIAL OFF-DUTY POLICE AND FIRE SERVICES**

**Sec. 2-56.1. Definitions.**

When the terms defined in this section are used in this division, they shall have the meanings ascribed to them in this section, unless the context of this division expressly provides to the contrary:

(a) *Department* shall mean the authorized permit issuing agent(s) of the Miami-Dade Police Department, Fire Department, Corrections and Rehabilitation Department, and the Office of County Manager, respectively, of Miami-Dade County.

(b) *Law Enforcement Officer* shall mean a certified Law Enforcement Officer of any rank who is a duly appointed employee of the Miami-Dade Police Department ~~[[or Corrections and Rehabilitation Department]]~~.

(c) >>Correctional Officer shall mean a certified Correctional Officer of any rank who is a duly appointed employee

<sup>1</sup>Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

of the Miami-Dade Corrections and Rehabilitation Department.<<

(d) *Off-regular-duty police services* shall mean and include any police services rendered by a Law Enforcement Officer >>or Correctional Officer<< during a period or periods of time not within the regularly assigned hours of duty >>except for those police services performed by Correctional Officers on behalf of a state, county or municipal law enforcement agency other than Miami-Dade County pursuant to that agency's supervision and authority and otherwise in accordance with applicable state law. Correctional Officers shall not be considered to be acting within the course and scope of their official duties for Miami Dade County whenever they are performing police work on behalf of any state, county or municipal law enforcement agency other than Miami-Dade County.<<

(e) *Firefighter* shall mean a Fire Officer of any rank who is an employee of the Fire Department.

(f) *Off-regular-duty fire prevention and fire inspection services* shall mean and include any such services rendered by a Firefighter during a period or periods of time not within his regularly assigned hours of duty.

(g) *Permit* shall mean a permit issued pursuant to this division.

(h) *Permittee* shall mean and include any person and/or business concern receiving a permit.

(i) *Permit assignment* shall mean and include any assignment made by the appropriate department to a Law Enforcement Officer >>or Correctional Officer<< to provide any off-regular-duty police services, and shall also be deemed to include any assignment made by or to a Firefighter to provide any off-regular-duty fire prevention or fire inspection services.

#### **Sec. 2-56.2. Permit--Application.**

Any person who engages in an activity or function within Miami-Dade County which may reasonably require special police services or special fire prevention or fire inspection services, in addition to those police services or fire prevention and fire inspection services provided generally to the public by law, may apply to the appropriate department for a permit providing such services.

**Sec. 2-56.3. Same--Issuance.**

Upon application on a form provided by the Department for that purpose, the Department may issue to the applicant a permit which shall authorize and define such off-regular-duty police services or off-regular-duty fire prevention or fire inspection services as the Department deems appropriate; provided, however, that the Department may cancel a permit issued hereunder at any time with or without cause.

(a) The issuing Department may require a permittee to deposit cash monies or a certified check in an amount estimated as being applicable for performance of requested services when the permit is for nonrepetitive services, or the permittee has previously been delinquent in remitting charges for services rendered.

(b) An adjusted remittance will be effective upon fulfillment of authorized permit services, with unearned amounts of the aforementioned deposit returned to the permittee or such additional amount required remitted by said permittee.

**Sec. 2-56.4. Same--Charges.**

The charges for each permit issued shall be made in accordance with a uniform schedule of fees approved by the Manager and submitted to the County Commission in the form of an administrative order.

**Sec. 2-56.5. Same--Relinquishing.**

A permittee may relinquish his permit at any time; provided, however, that in the event of such relinquishment, the permittee shall be required to pay to the Department which issued the permit a reasonable compensation for all expenses incurred and preparations made to provide the services authorized by said permit. The amount of said reasonable compensation may be agreed upon by the Department and the permittee at the time the permit is relinquished.

**Sec. 2-56.6. Compensation of Law Enforcement Officers,  
>>Correctional Officer<< and Firefighters.**

For each permit assignment fulfilled by him >>or her<<, a Law Enforcement Officer >>, Correctional Officer<< or Firefighter shall be compensated by Miami-Dade County in an amount equal to the amount charged for his >>or her<< services under the permit, less the surcharge of twenty (20) percent; and a Law Enforcement Officer >>, Correctional Officer<< or

Firefighter shall not accept or receive any other compensation whatsoever from any person for fulfilling a permit assignment. No time served by a >>Law Enforcement Officer, Correctional Officer or a << Firefighter in fulfilling a permit assignment shall be considered in determining the amount of compensatory time off that a Law Enforcement Officer >>, Correctional Officer << or Firefighter may be entitled to receive.

**Sec. 2-56.7. Certain compensation prohibited.**

No Law Enforcement Officer >>Correctional Officer<< or Firefighter shall accept or receive any compensation whatsoever from any person except Miami-Dade County for performing any off-regular-duty police services or off-regular-duty fire prevention or fire inspection services.

**Sec. 2-56.8. Status of Law Enforcement Officers, >>Correctional Officers<< and Firefighters fulfilling permit assignments.**

Law Enforcement Officers >>Correctional Officers<< and Firefighters shall be deemed to be acting within the course and scope of their official duties while fulfilling permit assignments.

**Sec. 2-56.9. Disposition of proceeds.**

All proceeds collected by the Department under the terms of this division shall be forthwith transmitted by same to the Director of the Finance Department of Miami-Dade County, who shall deposit said proceeds in the general fund of Miami-Dade County.

**Sec. 2-56.10. Rules and regulations.**

(a) The Department shall make and prescribe such rules and regulations reasonably necessary and appropriate for the proper administration and enforcement of the provisions of this division.

(b) Employees shall be selected and assigned in accordance with departmental policies, consistent with the duties of the employee's classification.

(c) The Department shall furnish from time to time such information as is requested by either the County Manager or the Insurance Manager pertaining to the specific character and volume of off-regular-duty services provided under the provisions hereof and the Insurance Manager shall report to the County Manager and the Department at least each six (6) months the frequency, character and cost of compensation claims paid, together with any recommendations he

may have to reduce the frequency of accidents.

\* \* \*

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:

RA6

Prepared by:

Lee Kraftchick

Lee Kraftchick

Sponsored by Commissioner Joe A. Martinez and Commissioner Dorrin D. Rolle