

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

August 3, 2018

Ty Thompson
Jackson County Constable, District One
P.O. Box 301
Moss Point, MS 39555

Re: Dual Employment

Dear Mr. Thompson:

Attorney General Jim Hood has received your opinion request and has assigned it to me for research and reply.

Issues Presented

In your request, you ask whether an elected constable may also work as an appointed investigator for the District Attorney's Office.

Response

The positions of constable and investigator with the district attorney's office are both within the executive branch of government. See MS AG Ops., Trainer (May 8, 2015) and Abron (June 21, 2004). Thus, there is no violation of the doctrine of separation of powers if a person serves both as a constable and an investigator with the district attorney's office. However, "(w)e have emphasized that a constable who accepts the responsibilities of two executive branch offices must keep the two positions separate and that the duties and responsibilities of one position may not interfere with the duties and responsibilities of the other." MS AG Op., Trainer (May 8, 2015) *citing* MS AG Op., Yarborough (July 20, 2011). In a prior opinion on this very issue, we opined as follows:

The term "full-time" in Section 25-31-10 of the Mississippi Code, Annotated, 1972, means that the criminal investigator be a full-time employee and that he devote his working hours, as determined by the district attorney and which

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by the nature of criminal investigation may be long and varied, to the performance of his employment and to no other project. If he has the time he could perform the duties of constable in his non-working spare time. He would not be able to serve papers as a constable while also investigating a case as the criminal investigator.

It should be noted that Section 267 of the Mississippi Constitution requires an officer to devote such attention to the duties of his office which shall suffice for a full and faithful discharge of the duties of that office. Fairley v. Western Union Telegraph Co., 73 Miss. 6, 18 So. 796 (1895), Miller v. Walley, 122 Miss. 521, 84 So. 466 (1920).

MS AG Op., Richardson (Aug. 18, 1983). We reaffirm our opinion in Richardson.

With respect to any questions of conflict of interest, we refer you to the Mississippi Ethics Commission.

If we may be of further service, please let us know.

OFFICIAL OPINION

Very truly yours,

JIM HOOD, ATTORNEY GENERAL

By:



Beebe Garrard
Special Assistant Attorney General