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ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

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OPINION 15-0054

107 Sheriff

La. R.S. 14:139.1

Honorable Ron Johnson
Sheriff - Cameron Parish
P.O. Box 1250
Cameron, LA 70631

Public safety demands relating to new and expanded industrial and commercial developments, which the Sheriff determines cannot be adequately addressed with current personnel, constitute a public emergency pursuant to La. R.S. 14:139.1(C). As such, the Sheriff of Cameron Parish is authorized to retain additional staff and/or officers to address the public safety issues notwithstanding the hiring limitations set forth in La. R.S. 14:139.1(A).

Dear Sheriff Johnson,

Your letter of April 13, 2015 requesting an Attorney General's Opinion has been forwarded to me for research and a reply. Specifically, your letter asks whether facts particular to Cameron Parish constitute a "public emergency," as this term is used in La. R.S. 14:139.1, such that it would be permissible for the Cameron Parish Sheriff's Office to increase the number of deputies or employees by more than five percent within six months prior to a gubernatorial election.

A sheriff is generally prohibited from substantially changing the number of employees or payroll expenses six months prior to a gubernatorial election pursuant to La. R.S. 14:139.1, which provides, in pertinent part:

A. During the six months preceding a gubernatorial election and during the time interval between the gubernatorial election and the first day of July following election, it shall be unlawful for any sheriff to:

- (1) Increase the number of deputies or employees in his office by more than five percent over the average number of such employees for each of the first six months of the twelve months preceding said election; or
- (2) Increase the payroll or other operating expenses of his office more than fifteen percent over its average amount of such expenditures for each of the months of the first six months of the twelve months preceding said election;

However, an exception to this general prohibition appears in La. R.S. 14:139.1(C), providing:

The provisions of this Section shall not apply when the increases or decreases are necessitated by flood, invasion by common enemy, or other public emergency. In addition, the provisions of this Section shall not apply to any increase based upon the utilization of additional revenue from a tax district election or to an increase necessitated by the completion of a new or expansion of an existing prison facility.

Our office has previously opined that the purpose of the above statute is to prohibit a sheriff from "unreasonably increasing the size of his staff to enhance the power and prestige of his office in an election year" and to restrict "a sheriff's payroll actions to those that are absolutely necessary to maintain performance of his official duties during the election year." La. Atty. Gen. Op. No. 84-398.

The facts presented in your request letter indicate that a public safety crisis currently exists in Cameron Parish thereby necessitating the hiring of additional law enforcement personnel.¹ However, to address the public safety crisis, the proposed personnel increase will be more than five percent of the average number of employees for the office and the timing of the hiring need is within six months of a gubernatorial election, which prompts consideration of La. R.S. 14:193.1.

Your letter indicates that the population of Cameron Parish, post-Hurricane Rita in 2005, is approximately 6,500 residents. Your current staff of 83 full-time employees has, until now, been able to adequately serve the public safety needs of the Parish. We understand that in recent years multiple multi-billion dollar liquefied natural gas (LNG) facilities have located in the Parish, two of which are currently in the process of constructing expansions and/or additional facilities. The two ongoing projects have generated approximately 7,500 new construction jobs and the erection of multiple temporary housing facilities in the Parish necessary to support the projects. Further, a review of a report compiled by the Southwest Louisiana Economic Development Alliance² indicates that additional projects pending final approval anticipate an additional 3,800 construction jobs in Cameron Parish.

Your letter asserts that these projects present an increased demand for law enforcement services for which you are unable to adequately respond with current staffing. Also relevant is the fact that Cameron Parish, in terms of geographic size, is one of Louisiana's largest parishes. Thus, not only has the Parish experienced an influx in the number of individuals temporarily working and/or living in the Parish, which has more than doubled the normal population, the geographical size of the Parish is another factor which could impact whether the size of your current staff is sufficient to address

¹ You have indicated your current staff consists of approximately 83 full-time employees, five percent of which would be 4.15. Therefore, assuming that 83 is roughly the average number of employees of your office, La. R.S. 14:193.1 is potentially implicated if you consider hiring more than four employees from the time period beginning six months prior to a gubernatorial election until July 1 of the year following the election.

² Such document is attached to your request letter and is a report of active or not yet completed projects as of February 10, 2015.

the current law enforcement needs of the Parish. In other words, your facts suggest that the recent increase in construction jobs has resulted in an increase of matters which require the immediate attention and/or response of the Sheriff's Office, and that attending to such matters require additional travel time due to the fact that the area you serve is quite expansive geographically. Current staffing is unable to address these law enforcement demands and, as a result, you have determined that this is a serious public safety concern.

Article V, Section 27 of the Louisiana Constitution describes the sheriff of each parish as chief law enforcement officer of that parish, unless otherwise provided for by law. While our office does not serve as a fact-finder in the process of rendering opinions, we do acknowledge that, as chief law enforcement officer for Cameron Parish, you are in the best position to determine whether the current law enforcement needs have changed to such an extent that a public safety concern has reached a point of being a public emergency, as this language is used in La. R.S. 14:139.1.

La. R.S. 14:139.1 does not define the term "public emergency." Consistent with the rules of statutory construction, more specifically, La. C.C. art. 11, it is relevant to consider the generally prevailing meaning of a word when ascertaining its meaning within a law. The word "emergency" is defined in Black's Law Dictionary as: "1. A sudden and serious event or an unforeseen change in circumstances that calls for immediate action to avert, control, or remedy harm. 2. an urgent need for relief or help." BLACK'S LAW DICTIONARY 628 (10th ed. 2014).

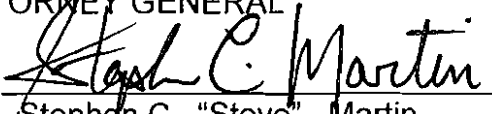
You have presented a scenario where expansive ongoing projects within the Parish, independent of the upcoming election, have presented your office with an unexpected change in the law enforcement needs of the Parish such that a public safety crisis now exists. These needs are precipitated by an increase in the number of individuals supporting these projects who are presently located within the Parish on a daily basis and is further exacerbated by the geographic size of the area you serve,

Sheriff's deputies regularly handle emergencies affecting the public. This is particularly true in geographically widespread rural parishes where it is less likely that an independent municipal police department exists. Deputies handle emergencies by taking immediate action to avert, control and/or remedy harm. Calls for help cannot be responded to in opposite boundaries of a widespread, rural parish in a timely manner without adequate staff. This is especially true for a parish such as Cameron, where deputies are required to travel the Calcasieu Ship Channel by ferry boat to get to an emergency at or near one of the industrial facilities at issue in this request. Deputies with responsibility for a specific area, such as an area close by an industrial plant under construction by several thousand workers, must be present, or very close by, in order to have a reasonable opportunity to protect people and property, avert harm and quickly remedy urgent calls for relief or help. Based on your belief that a public safety crisis now exists and that additional staff is needed to address the crisis, and taking into account the various facts you have presented, it is the opinion of this office that a public emergency exists necessitating an increase of staff as authorized by La. R.S. 14:139.1.

I trust that this opinion has addressed your question. If we may be of further assistance, please do not hesitate to contact this office.

Very truly yours,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

By: 
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