

**FILED**

May 7, 2014

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**Notice To:** Edgar County State's Attorney, and the Edgar County Board

  
EDGAR COUNTY CLERK

**SUBJECT:** re: Dee Burgin as Edgar County Deputy Sheriff and Board Member of the Edgar County Emergency Telephone System Board

It is my belief that since Mr. Dee Burgin has been (or will soon be) reinstated as a Deputy Sheriff for the County of Edgar, his position on the Edgar County Emergency Telephone System Board (ETSB) constitutes a potential conflict of interest, or incompatibility, with his duties as Deputy Sheriff. I believe that he can no longer faithfully perform his duties as an ETSB Member.

This is not a new discovery, as I brought it to the attention of the Edgar County Board on numerous occasions prior to his termination as a Deputy Sheriff. But since he was no longer an employee of the Edgar County Sheriff the alleged conflict was moot. Now it is not.

In the following paragraphs I will address each of the issues I am concerned with.

**A. Who can be appointed to the ETSB:**

First, when reading the statute that all ETS Boards must follow, 50 ILCS 750, it specifically states in paragraph 15.4 (a) that, among others, "*elected officials including a member of the county board*" are [also] eligible to serve on the board. Earlier in this paragraph it also states that the board must consist of representatives of public safety agencies.

This tells me that the legislature was aware of a potential conflict with county board members and chose to specifically allow it by using this language, and refrained from this language for all other appointees.

**B. Powers and Duties of the ETSB:**

Paragraph 15.4 (b) lists the powers and duties of the board that shall include, among others, the duty of "(4) *Authorizing all disbursements from the fund*".

Paragraph 15.4 (c) states in part that "*No expenditure may be made from the fund except upon the direction of the board by resolution passed by a majority of all members of the board.*"

The Edgar County ETSB authorizes all expenditure of funds at every regular meeting. One or more of those authorizations is the reimbursement to the Edgar County Sheriff's Office funds to pay for the wages and benefits of the emergency dispatchers whom are employees of the Sheriff's Department. Other reimbursements include building maintenance, electricity, and other recurring items.

The Edgar County ETSB also, on occasion, will discuss and take action on the level (or dollar amount) of reimbursement to the Edgar County Sheriff's Office for dispatching services.

**C. This Potential Conflict, or Incompatibility:**

I do not dispute that Mr. Burgin, by being a representative of a public safety agency as that term is defined in the Act, is eligible to serve as an ETSB board member (absent any conflicts).

What I dispute is his ability to sit in the board while employed by the Edgar County Sheriff's Department for the following reasons:

1. He may be called upon to act or vote on reimbursement of funds to the department he is an employee of.
2. He may be called upon to act or vote on reimbursement of funds to the department that his immediate supervisor, the Edgar County Sheriff, is charged with operating.
3. He may be called upon to act or vote on items that could have the effect of "personal gain" in his public employment with the Sheriff Department.

#### **D. Other Alleged Conflicts and/or Incompatibilities:**

Interest in Contracts: Mr. Burgin is interested, either directly or indirectly in contracts that are personal and financial. This contract is with his employment as a Sheriff's Deputy with the County of Edgar. Motive does not play a role in conflicts of interest and contracts, and the purpose of the prohibition was explained in the Illinois Supreme Court in *People v. Adduci*, 412 Ill. 621, 108 N.E.2d 1 (1952) which stated:

*"The interest against which the prohibition is leveled is such an interest as prevents it tends to prevent the public official from giving to the public that impartial and faithful service which he is in duty bound to render and which the public has every right to demand and receive..."*

Merely abstaining from voting does not cure the conflict of interest, even if it were awarded pursuant to public bid. By being in the position of voting on reimbursements to the Sheriff's Department, he could theoretically affect the Sheriff's budget, thereby leaving additional funds for the Sheriff to either hire additional deputies or pay additional overtime pay to existing deputies such as himself.

The Illinois Supreme Court also noted, in *City of Chicago v. Keane* (1976), "The faithful performance of official duties is best secured if a governmental officer, like any other person holding a fiduciary position, is not called upon to make decisions that may advance or injure his individual interest."

#### **E. Requested Actions:**

After your careful considerations of these allegations and in the best interest of the County of Edgar, the Emergency Telephone System Board, and the citizens of Edgar County, my suggestions follow:

1. **Mr. Burgin** should immediately resign from his position as ETSB member. Or;
2. **Edgar County Board** should immediately remove him from his position on the ETSB. Or;
3. **State's Attorney:** It is my belief that it is the duty of the State's Attorney to commence actions in Circuit Court against Mr. Burgin and the Edgar County Board, to have him removed from his position as ETSB member, should he refuse to resign or the Edgar County Board refuse to remove him.

Thank you for your prompt consideration of this matter,

  
John Kraft  
7060 Illinois Highway 1  
Paris, Illinois 61944

217-808-2527