

EXECUTIVE BRANCH ETHICS COMMISSION

**ADVISORY OPINION 03-9**

March 25, 2003

RE: May vehicle enforcement officer void citation issued when requested by another officer?

DECISION: No.

This opinion is issued by the Executive Branch Ethics Commission (the "Commission") upon its own motion. This matter was reviewed at the March 25, 2003, meeting of the Commission and the following opinion is issued.

It has come to the attention of the Commission, through official findings by the Transportation Cabinet, that it may be commonplace for officers employed by the Division of Vehicle Enforcement (the "Division") within the Transportation Cabinet to void uniform citations of speeding and other traffic violations issued by an officer at the request of another officer. The Executive Branch Code of Ethics, found in KRS Chapter 11A, addresses such action.

KRS 11A.005(1) provides:

- (1) It is the public policy of this Commonwealth that a public servant shall work for the benefit of the people of the Commonwealth. The principles of ethical behavior contained in this chapter recognize that public office is a public trust and that the proper operation of democratic government requires that:
  - (a) A public servant be independent and impartial;
  - (b) Government policy and decisions be made through the established processes of government;
  - (c) A public servant not use public office to obtain private benefits; and
  - (d) The public has confidence in the integrity of its government and public servants.

EXECUTIVE BRANCH ETHICS COMMISSION

**ADVISORY OPINION 03-9**

March 25, 2003

Page Two

Additionally, KRS 11A.020(1)(a) and (d) provide:

(1) No public servant, by himself or through others, shall knowingly:

(a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;

...

(d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

The Commission believes that citations issued by vehicle enforcement officers should not be voided based on who the violator is or who the violator “knows”. Officers should administer the issuance of citations fairly without impartiality, and once a citation is issued, an officer should not void a citation. Additionally, officers should not request other officers to void a uniform citation, and state officials in positions of authority over officers should not request officers to void any citations. The voiding of citations based on political connections, patronage, or friendship of officers damages the public trust in the independence and impartiality of public servants and the government of the Commonwealth.

Thus, the Commission recommends that management within the Division implement policies that include a periodic accounting of uniform citation numbers for voided citations, and then follow-up on any citations that have been voided.

Not only is the voiding of citations prohibited by the Executive Branch Code of Ethics, but also by KRS 431.455 as follows:

(1) No peace officer or other person shall invalidate, or attempt to invalidate, destroy or attempt to destroy a record copy of a uniform citation which has been lawfully issued.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

---

BY CHAIR: Joseph B. Helm, Jr.