



# STATE OF CONNECTICUT

## STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 79-28

Application of Subsection 1-84(d), General Statutes, to Members of the Public Defender Services Commission

The Ethics Commission has been asked whether subsection 1-84(d), General Statutes, as amended, a portion of the Code of Ethics for Public Officials, applies to members of the Public Defender Services Commission.

The Public Defender Services Commission is responsible for carrying out the purposes of Chapter 887, General Statutes, which concerns public defender services. Subsection 51-289(d), General Statutes. Two of the members are judges, appointed by the Chief Justice; of the remaining five, four are appointed by the legislative leadership and one by the Governor. Subsection 51-289(a), *id.* The Public Defender Services Commission appoints the Chief Public Defender and Deputy Chief Public Defender, and may suspend or remove either for just cause. Section 51-290, *id.* The Commission adopts rules for the operation of the Division of Public Defender Services, and provides the Division necessary facilities other than those furnished in the courts by the Judicial Department. Subsection 51-289(d), *id.* It establishes the compensation plan for public defenders, and makes personnel rules for employees serving under Chapter 887, General Statutes. Subsection 51-289(e), *id.* Members of the Commission serve without compensation, but are reimbursed for actual expenses incurred while engaged in the Commission's duties. Subsection 51-289(b), *id.*

Subsection 1-84(d), above, by its terms applies generally to public officials and employees of the State, and their employees. The Commission members who are judges are not subject to the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes, in any capacity under consideration: As judges, they are excepted from the definition of "public official" and "State employee"; as members of the Public Defender Services Commission they are not "public officials" because they are appointed by the Chief Justice. Subsections 1-79(j) and 1-79(k), General Statutes. Therefore, subsection 1-84(d) has no application to them.

Considering the manner of their appointment and the powers they exercise, non-judicial members of the Public Defender Services Commission are public officials, subsection 1-79(j), and are not exempt from subsection 1-84(d) as members of an advisory board, subsection 1-79(g), General Statutes. However, there is another exemption contained in subsection 1-84(d), above, for a member of a [a] commission who receives no compensation other than reimbursement

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for actual ... expenses ...." That describes precisely the manner of compensating members of the Public Defender Services Commission for their services as members. Therefore, the non-judicial members likewise are not subject to the provisions of subsection 1-84(d), General Statutes, as amended. See also Ethics Commission Advisory Opinions No. 79-22, 41 Conn. L.J. No. 12, p. 25; 79-25, 41 Conn. L.J. No. 13, p. 7.

By order of the Commission,

A handwritten signature in cursive script that reads "Thomas J. Lynch". The signature is written in dark ink and is positioned above the printed name of the signatory.

Rev. Thomas J. Lynch  
Chairman

Dated December 6, 1979