



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 81-4

Legislator/Lawyer Paid by State to Represent Indigent Clients

An attorney has been representing indigents at mental commitment hearings and, as a special assistant public defender, at criminal proceedings. For these legal services he is paid by the State. Having been elected to the General Assembly, he has asked the Ethics Commission whether the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes, prevents him from continuing his representation of indigent clients.

Respondents in mental commitment hearings, if indigent, have a right to counsel appointed by the court and paid for by the Judicial Department. Subsections 17-178(a) and 17-178(b), General Statutes. The attorney may be selected by the respondent or by the court from a panel maintained by the Probate Court Administrator. Subsection 17-178(b), id. The panel consists of members of the Connecticut bar who have volunteered to represent indigents at mental commitment hearings and who have not been removed for cause or other specified reason. Section 13, Probate Court Regulations, issued by the Probate Court Administrator. Selections from the panel are made by the court on a sequential basis. Subsection 13.3.1, id.

Attorneys who are willing to represent indigent persons in criminal matters or extradition proceedings, juveniles in delinquency matters, or indigents in other appropriate matters may volunteer to serve as special assistant public defenders. Once certified by the Chief Public Defender they are placed on a list which he maintains. Subsection 51-291(k), General Statutes. Appointments from the list to serve as a special assistant public defender on a contractual basis are made by the court. Subsection 51-293(a)(2), id. The attorneys are paid for their services from the budget of the Public Defender Services Commission. Subsection 51-291(l), id.

A legislator is a public official. Subsection 1-79(j), General Statutes. A review of sections 1-84 through 1-86, General Statutes, the code of ethics by which public officials must abide, reveals only two areas which require discussion. Even though the compensation of assistant special public defenders and of those who represent indigents at mental commitment hearings is exceptionally modest, a contract between an attorney and the State could amount to \$100 or more. In the circumstances presented this poses no problem under the Code of Ethics for Public Officials. Contracts with the State pursuant to a court appointment, which is the case here, are excepted from the provisions of subsection 1-84(i), General Statutes. The

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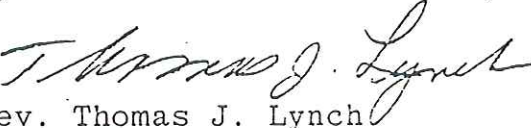
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other area is more general but no more of a problem. By virtue of his providing legal services, as has been described, the legislator might confront a potential conflict of interest in discharging his official duties. For example, the legislator obviously would have a potential conflict of interest if legislation raising substantially the compensation of special public defenders were to be considered. Section 1-86, General Statutes, provides procedures for avoiding the potential conflict. In other cases, that section might even allow the legislator to take official action despite the potential conflict.

Therefore, the Code of Ethics for Public Officials does not prevent a legislator from representing indigents in mental commitment proceedings or as a special assistant public defender, so long as he takes appropriate action should he face a potential conflict of interest.

By order of the Commission,


Rev. Thomas J. Lynch
Chairman

Dated March 6, 1981