



STATE OF CONNECTICUT

STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 83-9

Chief Probation Officer Instructing Auditors Concerning Criminal Justice System

In Ethics Commission Advisory Opinion No. 83-5, 44 Conn. L.J. No. 39, p. 12B (March 29, 1983), the Commission concluded that a chief probation officer should not conduct a program which educated the insurance industry in the criminal justice system. The main purpose of the program would have been to give the insurance industry the information it needed to increase its chances of collecting from criminals reimbursement for insurance claims paid to victims of the criminals.

A chief probation officer by statute has the power to influence presentence investigations, which aid judges in assigning appropriate sentences. A particular sentence, or a probationary period, can depend upon a requirement for restitution, including that the defendant reimburse to some extent an insurance company which has paid a claim arising from the defendant's crime. Without even a warrant probation officers may arrest a probationer.

The success of the chief probationer officer's part-time venture as an instructor would have depended to a considerable extent on the good will of the insurance industry. It was assumed that, for convenience, some or all of the program would have been carried out in Connecticut. The chief probation officer would have had statutory authority to curry good will at the expense of an individual's liberty in Connecticut. The Commission advised, therefore, that he should not proceed with his idea of instructing the insurance industry about the criminal justice system.

Now the same chief probation officer has asked whether he may with propriety conduct a somewhat similar program, but entirely out of State. The training program would be aimed at certified public accountants and others who audit manufacturing firms. The chief probation officer understands that when auditors discover embezzlement or fraud resulting in large losses to a manufacturing firm, they are ill-equipped to conduct, supervise, or contribute to a proper criminal investigation. Moreover, they are likely to lose track of a case almost as soon as it enters the criminal justice system. They do not know how to communicate with court officials, whether to request restitution or simply to be assured that justice will be done. The training program not only would be conducted outside of Connecticut but would be restricted to firms which carry on their manufacturing operations out of the

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State.

Although the subject matter of the training program proposed here is essentially identical to that discussed in Advisory Opinion No. 83-5, the chief probation officer appears to have managed to sever essentially all connections between his duties as a State employee and his private venture as an educator. As stated, his training program would be conducted out of the State for persons who audit firms conducting manufacturing operations outside Connecticut. The problems noted in Advisory Opinion No. 83-5 concerning possible use of office for personal financial gain, misuse of confidential information gained incident to State duties, or impairment of independence of judgment as a State employee, do not seem to exist when the present proposal is reviewed. If by chance there should be some relationship between a criminal defendant or probationer within the jurisdiction or authority of the chief probation officer and one of the latter's private clients, action in compliance with section 1-86, General Statutes should avoid the potential conflict of interest.

By order of the Commission,



Lucille E. Brown,
Chairperson

Dated 7 September 1983