



STATE OF CONNECTICUT  
STATE ETHICS COMMISSION

ADVISORY OPINION NUMBER 88-11

Department of Mental Health Employee Performing  
Clinical Evaluations In Criminal Cases

Mr. Donald Rilla, a psychiatric social work supervisor in the Department of Mental Health, has asked the Ethics Commission a series of questions regarding the propriety of outside employment related to his State duties.

Mr. Rilla is the Director of the Bridgeport Court Clinic. The Clinic currently provides court ordered competency to stand trial evaluations pursuant to Section 54-56d, General Statutes. Mr. Rilla functions as a member of a clinical team which performs these evaluations. In addition, he performs post-conviction evaluations which assist in determining whether further examination or sentencing is appropriate in a particular case. Section 17-244, *id.* There are also discussions under way among various interested State agencies regarding the provision of other kinds of pre and post trial evaluations for the courts by the Bridgeport Clinic.

Specifically, Mr. Rilla has asked the Ethics Commission whether his performing private clinical evaluations for compensation would constitute a potential conflict of interests under the following circumstances:

1. If the clinical evaluations were performed for private attorneys on Mr. Rilla's own time.
2. If the clinical evaluations were performed for the court (court ordered, prosecutors, or public defenders) on his own time as long as a Dual Employment form was properly approved.
3. Lastly, if the Bridgeport Court Clinic in the future were to provide clinical evaluations to the court (court ordered,

prosecutors, or public defenders) Mr. Rilla wishes to know whether he could still perform these evaluations for private attorneys.

The clinical evaluations in question are described by Mr. Rilla as psycho-social evaluations of both criminal defendants and convicted persons. The results of the evaluations may be used by private or public defense attorneys, State prosecutors, or the courts to assist in matters such as plea bargain dispositions and pre-sentence investigations.

In pertinent part, The Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes, says that a State employee shall not accept other employment which will impair his independence of judgment as to official duties or require or induce him to disclose confidential information acquired through his official duties; nor may he use his State position or confidential information received through holding such position to obtain financial gain for himself. Subsections 1-84(b) and (c), id.

Applying these provisions of the Code to Mr. Rilla's questions:

1. The Ethics Commission assumes that the vast majority of State employees, including Mr. Rilla, are honest and ethical. However, a principal purpose of the Code of Ethics is to foster and maintain public confidence in the integrity of the operations of State government. The Code therefore attempts to prevent situations which seem to invite use of position for personal gain or which raise the distinct possibility of inadvertent use of position for such gain. The situation presently under review would seem to be one which the Code was designed to prevent. In providing clinical evaluations to defense attorneys for pay, Mr. Rilla would be working privately for a class of individuals, the State's criminal defense bar, that is also professionally interested in his official recommendations regarding competency to stand trial and the sentencing process. Under the circumstances, it would be only natural for the public to assume that one or more defense attorneys would seek to establish a rapport with Mr. Rilla by retaining his private services. It would also appear to many that Mr. Rilla had accepted employment which would impair his independence of judgment; and, however inadvertently, was using his public position to obtain private clients. In order to avoid violations, both real and apparent, of subsections 1-84(b) and (c) of the Code, the Director of the Bridgeport Court Clinic should not, for compensation, provide private clinical evaluations to members of the State's criminal defense bar.

2. Were Mr. Rilla to contract with the Office of the Chief Public Defender or the Office of the Chief State's Attorney to provide clinical evaluations, the same ethical conflicts discussed in answer to question no. 1, supra, would be present. Only if the choice of Mr. Rilla was made by a neutral party, e.g., the Court or the Commissioner of Mental Health, could the public and all participants in the judicial process be assured that no potential for conflicts-of-interests existed.

3. For the reasons discussed in response no. 1, supra, whether or not the Bridgeport Court Clinic provides clinical evaluations to the State in the future, the Director of the Clinic should not perform such evaluations for compensation from private attorneys. It should be noted that the conflicts are particularly fundamental and acute when a State employee ventures to provide, for private compensation, services which are the same as he is required to provide in his State position. See, e.g., Ethics Commission Advisory Opinion No. 85-8, 47 Conn. L.J. No. 19, p. 3D (November 5, 1985).

By order of the Commission,



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William A. Elrick  
Chairperson

Dated 8-1-88

