

**CAUTION:** The following advice may be based on a rule that has been revised since the opinion was first issued. Consequently, the analysis reflected in the opinion may be outdated.

**40 IAC 2-1-8**

**40 IAC 2-1-9**

The Hoosier Lottery Commission's tickets came before the Commander of ISP's Questioned Document Section for quality control testing in his position with a private forensics laboratory. SEC found that a potential conflict of interest existed for the Commander to work on the Lottery's tickets since it was possible that a question involving the testing or quality control might come before the Questioned Document Section.

**90-I-18: Conflict of Interest, Moonlighting  
Indiana State Ethics Commission  
Official Advisory Opinion  
(Decision July 6, 1990)**

**FACT SITUATION**

The Commander of the Indiana State Police Questioned Document Section worked for a private forensics laboratory on civil matters, having previously been given permission to do so by the State Police Superintendent. The forensics laboratory was asked to submit a proposal to the Hoosier Lottery Commission to perform quality control testing on lottery tickets. The Commander wanted to know if that would be a conflict of interest for him. The Commander in his state job conducted examinations of Questioned Documents for any government agency, with 99% of the work being in regard to criminal cases. Document problems with which the Questioned Document Section deals include examination of handwriting, handprinting, typewriting, photo copying, and dating of inks. The testing for the Hoosier Lottery Commission would be batch testing of approximately 100 tickets to assure the Lottery Commission that the tickets meet the specifications and are reasonably secure. The specifications include the thickness of the paper, the thickness of the latex coating, that the latex coating cannot be lifted off and laid back down without being able to tell, and other tests. The State Police Questioned Document Section had tested the first two batches of tickets for the Lottery Commission because no other state agency in Indiana has document examiners. The Marion County Sheriff's Department has a document examiner through the Indianapolis-Marion County Laboratory. In addition, there are private examiners in Indiana and in other states. The Questioned Document Section has worked one case for the Lottery Commission which was in regard to a handwriting examination of writing on the reverse side of the ticket. If quality control ever became an issue, the investigation of the charge would probably come to the section of the Indiana State Police of which this individual was Commander. The Commander was not in a position to decide which laboratory received the Lottery Commission's contract. He said he would not be required to disclose any information that is confidential to the state. None of the work would be done on state time or with state facilities. The Commander felt that the fact that he worked for the state of Indiana would not influence the Lottery Commission to award the contract to the laboratory for which he worked. The Commander said he did not expect the State Police to be involved with tickets that had been altered or changed.

**QUESTION**

Does a conflict of interest exist if the Commander of the Indiana State Police Questioned Document Section performs quality control testing through a private forensics laboratory with which the Commander is affiliated for the Hoosier Lottery Commission?

**OPINION**

The Commission found that a potential conflict of interest exists for an employee of the Indiana State Police who works in the Questioned Document Section to work at a second job for a forensics laboratory on a contract that laboratory has with the Hoosier Lottery Commission to perform quality control testing on its tickets, because it is possible that a question involving the testing or quality control might come before

the Questioned Document Section.

The relevant rules are as follows:

40 IAC 2-1-9(A) provides, "If in the course of the discharge of his official duties as a state officer or state employee he shall find himself in a position where his, or his spouse's or his unemancipated children's economic interest shall be substantial and material and in conflict with the interest of the people of this State, then such state officer or state employee shall be expected to resolve such conflict as provided for in Section 10 (40 IAC 2-1-10)."

40 IAC 2-1-8 provides, "A state employee must not engage in outside employment or other outside activity not compatible with the full and proper discharge of his public duties and responsibilities. This outside employment or other outside activity must not impair his independence of judgment as to his official responsibilities, pose a likelihood of conflict of interest or require him or persuade him to disclose confidential information acquired by him as a result of his official duties."

The Indiana State Police Department also has its own rule affecting employee's employment. The rule provides, "Employees shall conduct themselves as follows:

2. Not engage in any other activity, employment, business or trade that takes priority over obligations to the Department, or that limits effectiveness in the discharge of official duties, or that would tend to reflect discredit upon the Department."