

**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 Consequently, the analysis reflected in the opinion may be outdated.

**Conflict of interest, Moonlighting**

The Executive Secretary of the Coroners Training Board sought advice on whether he could continue to serve in his position once he took office as a county coroner. SEC found there would be no conflict of interest for the Secretary to continue serving in his position with the CTB so long as he was screened from awarding or administering grants to the county in which he was serving as the coroner.

**96-I-7 Conflict of Interest, Moonlighting**

(Decision July 25, 1996)

**Fact Situation**

The Executive Secretary of the Coroners Training Board was running unopposed as Tippecanoe County Coroner. The question was whether he could continue as the Executive Secretary once he took office as County Coroner. The Criminal Justice Institute housed the Coroners Training Board and provided administrative services for it. This individual had entered into a contractual relationship with the Board in July of 1995 to perform personal services as an independent contractor and that contract expired on June 30, 1996. The contract contained an option to extend the relationship for two additional years. Because the Executive Secretary was a candidate for Tippecanoe County Coroner and unopposed, the Board extended the contract only through December of 1996 and asked the State Ethics Commission for an advisory opinion, to examine the question before he assumed office in January of 1997.

The Executive Secretary's duties in working for the Coroners Training Board were to develop a training program, to facilitate meetings, and to implement programs, projects and activities.

The responsibilities had evolved over the one-year time period of the first contract. His first task was to develop a coroners' manual. The two-hundred- and-sixty page manual was completed in May and mailed to all coroners and all deputy coroners in the state. The Executive Secretary also developed training programs for coroners, law enforcement officers, and anyone interested in medical-legal death investigations. He was setting up training sessions in regions of the state at the time. He also helped develop brochures for the Coroners Training Board. The Executive Secretary of the Board did not grade the tests for the coroners' training programs. Rather than assuming that role, he recommended an outside agency design, implement, and grade tests.

The Executive Secretary had a role in preparing the budget for the Board. He had initially formatted the budget according to the needs he saw for two years. The Criminal Justice Institute and the State Budget Agency approved the budget using the recommendations he made.

Eleven members served on the Coroners Training Board but not all eleven were voting members. The Board voted whether to finance all programs. The Board's top priority was

to develop a mandatory training program for all coroners and deputy coroners, effective January 1997. The Board consulted a variety of sources, including coroners' offices in five other states. The Executive Secretary helped to develop a coroners' continuing education program that added education and training requirements beyond those dictated by the mandatory training program.

Senate Bill 369 (1994) originally gave the Coroners Training Board the power to establish training programs and to mandate attendance. However, the Board could not mandate coroners attend such training because the office is a constitutional office. The Board had no control over individual coroners in terms of telling local coroners how to do their job. Nevertheless, the Board could mandate that deputy coroners attend. The Board could also let the coroner's county know that the coroner had not attended.

One of the Board's activities was the awarding of grants for coroners and deputy coroners to attend training programs. The "grants" referred to were from a reimbursement fund for coroners and deputy coroners who attended the training. The Board was funded through death certificate funds from each county. Someone who applied for a grant could use those funds to attend a training program, whether run by an Indiana entity or by another state.

The Executive Secretary's involvement with these grants was administrative. He informed coroners about training programs, sent information to interested coroners, and compiled the grant application materials and information received from the applicants. This was distributed to the Board. The Executive Secretary did not give recommendations to the Board and did not vote. He brought all grant requests to the next scheduled Board meeting, regardless of what he thought of an application's merits.

While the awarding was somewhat competitive, the Board had not received that many requests. The Board had awarded no more than twelve grants. The original intent was to offer grants for training before the Board had its own training programs. The Board decided at a meeting which individuals to reimburse. After discussing the grant, the voting members voted. The Board had denied one grant application. The Executive Secretary's role was that he helped present the individual's request to attend the program which was on blood splatter evidence. The Board thought this program was too narrow to justify the expenditure of reimbursement funds.

The Commission felt that he, as Tippecanoe County Coroner, would be more aware of grants because of his work as Executive Secretary of the Coroners Training Board. But he said such information would more likely come because of his status as a former Coroner and current Deputy Coroner. He had been Coroner in Tippecanoe County previously. He had served two consecutive terms and could not run again at the time he left office. His training was as a veterinarian. In addition, many county coroners looked for funds at the local level rather than applying for a grant from the Coroners Training Board, particularly county coroners' offices that had bigger budgets, such as Tippecanoe County.

The grant application form itself was not very long. It was a four-page document and the applicants needed only complete two of the four pages. The form contained information on what the program was, an estimate of expenses, how the individual would benefit, and also permitted a deputy coroner or a coroner to sign it. The form included an evaluation section for the program to be completed and sent in after the individual had attended. A grant application from the Tippecanoe County Coroners office could be mailed directly to the Board. The grants available were expected to shrink to almost none in the following year or two as Indiana coroners and deputy coroners were able to meet all of their training needs through the training program of the Coroners Training Board, once the Board implemented all of its program.

The Executive Secretary said he had a good working relationship with the coroners throughout the state. As Executive Secretary, he had become the first source of information and coroners contacted him when they had a question. He knew most of the people personally. The Board was not a regulatory board for state coroners at the time. It would have a regulatory dimension if the Board required training for deputy coroners and had the power to sanction deputy coroners who did not fulfill Board-mandated training. The Board at the time had no sanctioning power.

Two county coroners' positions in the state were full time and ninety were part time. The Board viewed the Executive Secretary's position as a full-time job. The coroner's job in Tippecanoe County was a part-time job. The Executive Secretary planned to perform the Coroner's work at night or off hours. That was when the Coroner was most often needed. When he had been a Coroner in the past, he said he could count on one hand the number of times he had to leave his veterinary practice to attend to Coroner's matters. All but the two full-time Indiana coroners held full-time jobs in addition to their coroner's position.

#### Question

Is the Executive Secretary of the Coroners Training Board who is running unopposed for Tippecanoe County Coroner permitted to continue as the Executive Secretary once he takes offices as county coroner?

#### Opinion

The Commission found that the continuing employment of the Executive Secretary of the Coroners Training Board after election as Coroner did not pose a conflict of interest or impair independence of judgment as long as the Executive Secretary was screened from the awarding and administration of grants to Tippecanoe County.