

42 IAC 1-5-6 Conflict of interest; decisions and voting (IC 4-2-6-9)

The Executive Director of ICJI was subjected to a screening process since conflicts of interest existed due to his past employment with the Ft. Wayne P.D. and his spouse's current employment with the Women's Bureau, both of which received grant funding from his agency.

July 13, 2006
No. 06-I-19

ISSUE

The Executive Director of the Indiana Criminal Justice Institute (hereinafter "ICJI") is originally from Ft. Wayne, Indiana, where he served as a police officer and a city council member. His wife is employed as the Director of Finance for the Fort Wayne Women's Bureau (hereinafter "Women's Bureau"), which is a non-profit, United Way Agency. The Women's Bureau's mission, in part, focuses on sexual assault and rape awareness. In her role as Director of Finance, the Executive Director's wife is involved in the financial aspects of the organization's 'Rape Awareness Program,' which receives grant funding from ICJI. The Director's wife assists the Women's Bureau in obtaining funding for its Rape Awareness Program, which includes her involvement in the application and pursuit of grants from a variety of sources, including ICJI.

Specifically, the Women's Bureau has in the past applied for and received Victims of Violent Crime Act (hereinafter "VOCA") grants administered by ICJI and are through fines and penalties from offenders of federal crimes. See <http://www.in.gov/cji/victim/voca.html>. Portions of the grants that were awarded to the Bureau are designated to fund salaries and other related operating expenses. The Bureau is currently operating with the help of a VOCA Grant (#05VA005) that expires June 30, 2006 prior to the date that the Director began employment with ICJI. The Women's Bureau has reapplied or likely will reapply for a similar grant to support the organizations program(s) and overall mission. As a paid employee of the Women's Bureau, the Executive Director's wife is financially benefited from proceeds derived from these grants. According to the Women's Bureau's most recent application for a VOCA grant to ICJI, approximately twenty percent (20%) of the Executive Director's wife's pay comes from VOCA funding, totaling \$9,800.00 a year.

In addition, given the Executive Director's wife's past employment with the Fort Wayne Police Department (hereinafter "Ft. Wayne PD"), the Executive Director has requested that he be screened from any grants that are currently awarded or may be awarded in the future by ICJI to Ft. Wayne PD in order to avoid the appearance of a conflict.

The Chair of the ICJI Board of Trustees has requested that the State Ethics Commission (hereinafter "Commission") examine the Executive Director's actual conflict of interest with regard to the Women's Bureau, as well as the appearance of a potential conflict with regard to Ft. Wayne PD. Further, the Chair has requested that the Commission render a formal advisory opinion based on the facts presented in accordance with IC 4-2-6-9(b). The Chair and the Executive Director have submitted the following documents for the Commission's consideration: (1) Proposed screening procedures prepared by the Chair of the ICJI Board of Trustees; (2) Personal letter from the Executive Director disclosing conflict of interest with regard to the Women's Bureau; and, (3) the Executive Director's financial disclosure statement.

RELEVANT LAW

Indiana Code 4-2-6-9, Conflict of economic interests. Sec. 9.

ANALYSIS

The Commission finds that the Executive Director has disclosed an economic conflict of interest as contemplated by IC 4-2-6-9(a)(2). The Commission has reviewed the materials submitted by the Chair and the Executive Director, which include proposed screening measures, a personal letter from the Executive Director, and the Executive Director's financial disclosure statement. The Commission finds that a remedy to the disclosed conflict of interest would be permissible in accordance with IC 4-2-6-9(b)(1). Therefore, contingent upon the approval of the Executive Director's appointing authority, the Commission recommends that all matters involving the Women's Bureau and the Ft. Wayne PD be assigned to another person, and that the following screening measures should be implemented:

Indiana State Ethics Commission Recommended Screening Measures for Executive Director, Indiana Criminal Justice Institute

The Indiana Criminal Justice Institute (ICJI) and its Executive Director will follow the screening measures outlined below in dealing with present and future conflicts of interest related to the grant application, review, and approval process.

The Executive Director will on an annual basis comply with the financial disclosure requirements required of agency heads as described in IC 4-2-6-8, listing both his personal financial interests and those of his spouse.

The Executive Director will submit a sworn affidavit that will accompany these screening procedures, which will be kept on file with the agency, the ICJI Board of Trustees, and the State Ethics Commission, which will stipulate the Executive Director's agreement that he will take no part in the application, review, and award of grants of any kind to the following: (1) any organization through which his wife receives compensation, including the Fort Wayne Women's Bureau (hereinafter "Women's Bureau"), and (2) his former employer, the Fort Wayne Police Department (hereinafter "Ft. Wayne PD").

The Executive Director shall immediately be screened by the agency ethics officer from receiving or reviewing any documents, communications, or other legal instruments pertaining to the Women's Bureau and the Ft. Wayne PD. The ICJI Board of Trustees shall identify and approve, in writing, a person(s), who is not subordinate to the Executive Director, who will be given authority by the Board of Trustees to make decisions pertaining to any grant(s) and to sign relevant documents on behalf of ICJI with regard to the Women's Bureau and the Ft. Wayne Police Department, on condition that the full Board of Trustees maintain consent, final review, and approval authority for the award of any grant to these entities.

If any actual or perceived conflict(s) should arise with regard to the Executive Director's wife's employment with the Women's Bureau, or any other organization with whom she may be employed or with which she may be affiliated, the Executive Director will notify the ICJI Board and the State Ethics Commission, in writing, within 30 days. Upon disclosure of any conflict, the ICJI Board, in coordination with the agency's ethics officer and the State Ethics Commission, will immediately implement screening measures to avoid any actual or perceived conflict.

The ICJI Board of Trustees will on an annual basis file with the State Ethics Commission a statement verifying that screening measures have been implemented by the agency to remedy the Executive Director's actual and perceived conflicts of interest with the Women's Bureau and the Ft. Wayne PD. The verification statement will describe the screening measures that the agency has implemented and will be filed no later than February 1 of every year, which is the same deadline provided in IC 4-2-6-8 with regard to the annual filing of financial disclosure statements.

CONCLUSION

The foregoing analysis and recommended screening measures have been prepared in accordance with IC 4-2-6-9(b), and are submitted to the Chair and the Executive Director for presentation to the ICJI Board of Trustees and the Director's appointing authority for approval and implementation.