



STATE OF CONNECTICUT
STATE ETHICS COMMISSION

ADVISORY OPINION NO. 88-14

Private Counseling Related to the Duties of a Juvenile
Probation Officer

Ms. Sherman Malone, a State employee in the Judicial Department, has asked the Ethics Commission for an advisory opinion regarding the propriety of her engaging in private counseling related to her State duties.

For approximately ten years Ms. Malone has held the position of probation officer in the Juvenile Probation Office of the New Haven Superior Court. Since February of this year she has also been a Supervisor in that Office.

Juvenile probation officers are appointed pursuant to Section 46b-125, General Statutes. They are to make such investigations and reports regarding juvenile matters as the Court directs or the law requires. Id. Included are investigations prior to the disposition of the case of any child found to be delinquent. 46b-134, id. Additionally, they review all complaints alleging that a "family with service needs" situation exists due to juvenile problems. 46b-149, id.

After a predisposition investigation, a juvenile probation officer often may recommend to the Court that a delinquent child obtain private counseling as a condition of probation. If an officer determines that a "family with service needs" situation exists, one of two statutory alternatives is to refer the matter to a "...suitable community based or other service provider..." Id. at subsection (b). According to Ms. Malone's former supervisor, Mr. Richard Aldridge, frequent referrals for private assistance also are made by juvenile probation officers in cases where the State's involvement is unofficial or only minimal; e.g., parents seeking assistance with "out of control" teenagers.

In the performance of her official duties Ms. Malone has developed an on-going working relationship with Community Children and Family Services (CCFS). CCFS is a private agency

Phone: (203) 566-4472

97 Elm Street — Rear

██████████ • Hartford, Connecticut 06106

An Equal Opportunity Employer

with a self-stated goal of "providing quality counseling and advocacy services for inner-city children and their families." CCFS has been an important and frequently used resource for the New Haven Juvenile Probation Office because of its location and level of services. In her State capacity Ms. Malone often has recommended to the Court that involvement with CCFS be a condition of probation. On many occasions she has referred unofficial, i.e., non-judicial, and "family with service needs" matters to CCFS. In 1987, Ms. Malone was instrumental in establishing a joint State/CCFS project to provide group counseling to selected probationers.

Apart from her State responsibilities, Ms. Malone maintains a small private practice performing individual and family counseling for compensation. Over the past decade she also has provided these professional services to many needy clients on a voluntary basis without compensation. In her private capacity Ms. Malone has developed an unwritten understanding with CCFS. Under this agreement she provides her skills through CCFS to individuals needing services and unable to afford or have access to traditional service providers. She is to be paid if and when CCFS receives payment in connection with a particular case with which she has been involved. According to Ms. Malone, in the course of this agreement she has provided her services to CCFS in over 100 cases, and has been compensated in only one instance. Ms. Malone further states that at no time has she accepted a case from CCFS regarding a client referred to that agency by the Juvenile Probation Office or otherwise involved with the Juvenile Probation Office.

Ms. Malone wishes to know whether under the Code of Ethics for Public Officials, Chapter 10, Part I, General Statutes, she may continue to perform private counseling for CCFS.

In pertinent part, the Code of Ethics mandates that a State employee not accept other employment which will impair independence of judgment as to official duties or require or induce disclosure of confidential information acquired in State service. Subsection 1-84(b), General Statutes. Additionally, a State employee may not use public position or confidential information received through holding such position to obtain personal financial gain. Subsection 1-84(c), id.

Conflicts of interests, both real and apparent, are almost inevitable when a State employee accepts outside employment with an entity which can benefit from the employee's official actions. This would seem to be the case in this instance. Regardless of Ms. Malone's agreement not to accept clients from CCFS that have been referred to that agency by the Juvenile

Probation Office, it will still appear that she has accepted outside employment which will impair independence of judgment and is using public position to obtain private financial benefit in violation of subsections 1-84(b) and (c) of the Code. For her frequent official referrals of clients to her private employer, however appropriate, will be seen as attempts to ingratiate herself with an organization which has the ability to provide her additional income.

The application of the Code of Ethics to this matter would appear to yield a harsh result by prohibiting a dedicated State employee from providing needed private services on a largely voluntary basis. However, in reality, the provisions of the Code are not that restrictive, for they are premised on the element of financial gain. As the Commission has previously determined in defining "employment" as that term is used in the Code "[b]ecause of the emphasis on the problem of private gain throughout the Code, it seems reasonable to confine 'employment' to work which is compensated - involving outside income, not just outside activity." Ethics Commission Advisory Opinion No. 80-18, 42 Conn. L.J. 22, p. 23 (November 25, 1988). Therefore, Ms. Malone may continue to provide her counseling services to CCFS as a volunteer, receiving no compensation or only reimbursement of necessary expenses, without risking violation of the Code.

By order of the Commission,



William A. Elrick
Chairperson

Dated SEPT. 19, 1988

