

**STATE OF TENNESSEE**

OFFICE OF THE  
**ATTORNEY GENERAL**  
425 FIFTH AVENUE NORTH  
NASHVILLE, TENNESSEE 37243

June 20, 2000

Opinion No. 00-111

Attorney for Department of Correction Representing Other Clients

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**QUESTION**

Does it violate any statute or policy of state government for an attorney who works for the Tennessee Department of Correction to engage in the practice of law outside the Department of Correction?

**OPINION**

This practice does not appear to violate any state statute or rule as authorized by the Department of Correction, which according to correspondence included with the opinion request, has approved the practice so long as the representation does not present a conflict of interest, is not done during hours when the attorney is required to be engaged in his job with the Department, and has been approved by his supervisor.

**ANALYSIS**

This opinion is based on materials included with the opinion request, including correspondence. It appears that an attorney who is employed as a staff attorney for the Department of Correction also engages in additional employment as a consultant in land use and zoning cases, primarily with single family housing development. The Department permits the practice so long as the representation does not present a conflict of interest, is not done during hours when the attorney is required to be engaged in his job with the Department, and has been approved by his supervisor.

Correspondence indicates that the attorney represented a private developer with regard to a proposed development. This representation included hearings before the Metropolitan Planning Commission in Davidson County and contacting landowners in the area of the proposed development on the developer's behalf. Correspondence includes two letters from the Chief Counsel for the Department of Correction stating that this representation did not violate the Department's arrangement with the attorney. The request asks whether the practice violates any state statute or rule.

Our research of state law has found no statute or rule that this practice violates. The general conflict of interest statute, Tenn. Code Ann. § 12-4-101, prohibits officials from being directly interested in any public contract they have the duty to vote on or supervise. Based on the facts

presented, this statute would not apply in this case because no contract is involved that the staff attorney supervises. Our research has found no other state statute or rule that would prohibit this practice.<sup>1</sup>

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PAUL G. SUMMERS  
Attorney General and Reporter

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MICHAEL E. MOORE  
Solicitor General

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ANN LOUISE VIX  
Senior Counsel

Requested by:

Honorable Frank Buck  
State Representative  
Suite 32, Legislative Plaza  
Nashville, TN 37243-0140

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<sup>1</sup> This opinion does not address the Code of Professional Responsibility, Supreme Court Rule 8. Attorneys may seek Ethics Opinions from the Board of Professional Responsibility or its Disciplinary Counsel pursuant to Sup.Ct.R. 9, § 26.