

November 5, 1999

Bob Thiessen  
5835 SW 191st Avenue  
Aloha, OR 97007

Dear Mr. Thiessen:

This is in response to your correspondence dated October 12, 1999 regarding your possible conflict of interest as a Corrections Sergeant for the Washington County Sheriff's Office and your private endeavor as corrections consultant for a software vendor to assist in the development of a new jail management product.

**OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION STAFF  
OPINION NO. 99S-027**

**STATED FACTS:** An employee of the Washington County Sheriff's Office was assigned by the Sheriff to participate in the selection process for a new software application to replace the current jail management system. As a result of his experience as a jailer and his participation in the selection process, the employee is knowledgeable about jail operations and management systems. The sheriff's office selected Tiburon, a jail management vendor, to install a jail management system.

Recently, the employee was approached by a representative Trillium Software, Inc., a software vendor, who offered him an opportunity to work as a corrections consultant to assist in the development of an entirely new jail management product using new technology on a new platform. His duties for Trillium would be to advise the company on jail operations and data collection needs. Trillium would pay the public employee by the hour for his services.

The Washington County Sheriff approved the outside employment with Trillium on the condition that the employee does not conduct business with Trillium while on duty; that he not use the equipment and/or materials of the Sheriff's Office as part of his work for Trillium; he is not to disclose any information with Trillium about Tiburon's jail management system and he is not to provide Trillium with any documents or materials from either the county or Tiburon.

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RELEVANT STATUTES: The following Oregon Revised Statutes are applicable to the issues addressed herein:

ORS 244.020(15): Public official means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services.

ORS 244.040: Code of ethics; prohibited actions; honoraria. The following actions are prohibited regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed pursuant to ORS 244.120.

(1)(a) No public official shall use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment that would not otherwise be available but for the public official's holding of the official position or office, other than official salary, honoraria, except as prohibited in paragraphs (b) and (c) of this subsection, reimbursement of expenses or an unsolicited award for professional achievement for the public official or the public official's relative, or for any business with which the public official or a relative of the public official is associated.

QUESTION: Do Oregon Government Standards and Practices laws prohibit a sheriff's corrections officer from working as a consultant with a private company to develop a jail management computer software program?

OPINION: No. The provisions of ORS 244.040 apply here. The law states that public officials cannot use their position as a public official to obtain financial gain for themselves, a relative or for a business with which the official or a relative is associated. The Oregon Supreme Court has held that the term use in ORS 244.040(1)(a) includes availing oneself of a benefit available only because of holding official position.

The stated facts indicate the Washington County Sheriff set guidelines for the employee's outside employment. If the employee wishes to work for the private company without violating ORS Chapter 244, the employee must follow the GSPC guidelines for outside employment. In previous advisory opinions of a similar nature, the Oregon Government Standards and Practices Commission (GSPC) has issued guidelines related to public officials who choose to engage in outside employment or professional activity. Those guidelines have been based upon Oregon law pursuant to ORS Chapter 244 and include the following:

**GUIDELINES FOR OUTSIDE EMPLOYMENT OF PUBLIC OFFICIALS**

1. That private business not be conducted on public time.

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2. That public supplies, facilities, equipment, personnel, records or any other public resources not be used to carry out private business.
3. That no official action toward a third party be conditioned on a private business relationship with that third party.
4. That no confidential information be used to obtain financial benefit for the employee.
5. That employees will notify their appointing authority in writing of a potential or actual conflict of interest if private endeavors could or would be affected by public employment.

The employee should follow the procedures established by the Washington County Sheriff and the GSPC s guideline for outside employment in order to avoid violating Oregon Government Standards and Practices laws.

**THIS RESPONSE ADDRESSES ONLY THE APPLICATION OF ORS CHAPTER 244 TO THE FACTS STATED HEREIN. OTHER LAWS OR REQUIREMENTS MAY ALSO APPLY. THIS IS NOT A FORMAL ADVISORY OPINION PURSUANT TO ORS CHAPTER 244.280. IT IS MY PERSONAL ASSESSMENT AS THE EXECUTIVE DIRECTOR OF THE OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION.**

Please don t hesitate to call or write again if you have questions or would like additional clarification.

Sincerely,

L. Patrick Hearn  
Executive Director

LPH:aip/thiessen.so