

ADVISORY OPINION NO. 97-19

Issued on July 10, 1997 by the

WEST VIRGINIA ETHICS COMMISSION

PUBLIC SERVANT SEEKING OPINION

Chief of Police

OPINION SOUGHT

1. Is it a violation of the Ethics Act if police officers solicit contributions to fund the purchase of trading cards?
2. Is it a violation of the Ethics Act if police officers solicit contributions to fund the purchase of bicycle helmets for local youth?

FACTS RELIED UPON BY THE COMMISSION

1. As a part of its community policing policy, a municipal police force would like to purchase trading cards, modeled after baseball cards. The cards would provide a photo of an individual police officer, personal information about that officer, and a crime prevention message. Officers would give away these cards to youth in the community.
2. Each year the police department sponsors a bicycle safety rodeo for local youth. At the rodeo the members of the department teach participants bicycle safety tips through lectures, demonstrations, and practice. Every participating child who does not have a safety helmet is issued one at the rodeo. A random drawing is also held at the rodeo to give away two or three bicycles to participants.

The requester would like to solicit local businesses for contributions to fund these activities.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code 6B-2-5(c)(1) states in pertinent part that...a [public servant] may not solicit any gift unless the solicitation is for a charitable purpose with no resulting direct pecuniary benefit conferred upon the [public servant] or his or her immediate family...

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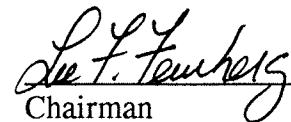
The Ethics Act, at WV Code 6B-2-5(c), prohibits public servants from soliciting gifts unless they are intended for a "charitable purpose". The Act does not define this term and where it is unclear whether a purpose is charitable, the Commission must make a determination on a case by case basis.

1. Trading Cards. In this case the Commission finds that the purchase of trading cards depicting local police officers to be given to the public as part of the department's community policing program does constitute a "charitable purpose" as that term is used at WV Code 6B-2-5(c). Therefore, the Police Department may solicit contributions to underwrite the cost of obtaining those trading cards.

2. Bicycle Helmets. In Advisory Opinion 92-37 the Ethics Commission ruled that soliciting funds so that bulletproof vests could be purchased for use by law enforcement officers was a charitable purpose under the Ethics Act. The Commission has also held that solicitation of funds for municipal recreational facilities used by youth was also a charitable purpose. See Advisory Opinion 96-19.

In this case the Commission finds that the primary purpose of the bicycle rodeo - promoting bicycle safety among local youth and providing safety helmets to those children who do not have their own helmets - is "charitable" as that term is used in the Ethics Act. Therefore it would not violate WV Code 6B-2-5(c) if members of the police department solicited local business for contribution to purchase bicycle safety helmets.

This holding does not apply to the solicitation of funds for the purchase of bicycles to be given away in a raffle at the rodeo because such a purchase is not a "charitable purpose" under the Ethics Act. The Department may accept the unsolicited donation of bicycles for the rodeo.


Chairman