

# State of Colorado



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## *Advisory Opinion No. 09-03 (State Patrol Members)*

**SUMMARY:** It would not be a violation of Colorado Constitution Art. XXIX for Colorado State Patrol members assigned to the security detail of the Governor, the Lieutenant Governor, or any governor-elect to accept free admission to events with an admission price in excess of \$50, when they are attending such events with any of those officials as part of their official duties.

### ***I. BACKGROUND***

The Independent Ethics Commission (“IEC” or “Commission”) has received a request for advisory opinion, asking whether members of the Colorado State Patrol may accept free admission to events with a ticketed price in excess of \$50, when they are attending such events as members of a security detail for a high-ranking government official.

### ***II. JURISDICTION***

The IEC finds that members of the Colorado State Patrol are “government employees” subject to the jurisdiction of the Commission. CO Const. Art. XXIX (2)(1).

### ***III. APPLICABLE LAW AND PRECEDENT***

Section 3 of Article XXIX (Gift ban) reads in relevant part:

(2) No public officer, member of the general assembly, local government official, or government employee, either directly or indirectly as the beneficiary of a gift or thing of value given to such person’s spouse or dependent child, shall solicit, accept or receive any gift or other thing of value having either a fair market value or aggregate actual cost greater

than fifty dollars (\$50) in any calendar year, including but not limited to, gifts, loans, travel, entertainment, or special discounts, from a person, without the person receiving lawful consideration of equal or greater value in return from the public officer, member of the general assembly, local government official, or government employee who solicited, accepted or received the gift or other thing of value.

C.R.S. §24-33.5-216 provides:

The chief shall provide a motor vehicle and driver for the use of the governor of the state during his term of office. The chief shall also assign officers to protect the governor and his immediate family...The chief shall also provide a motor vehicle for the lieutenant governor and, at the discretion of the governor, may assign an officer to provide protection for the lieutenant governor in the performance of the duties of such office. The chief shall also make available an officer to protect any governor-elect.

In Position Statement 08-01 (Gifts), as well as in all opinions and decisions rendered by the Commission since then, the Commission has interpreted Article XXIX in a manner that preserves what it believes was the intent of the electorate - "to improve and promote honesty and integrity in government and to assure the public that those in government are held to standards that place the public interest above their private interests." The Commission has also referenced Section 6, which provides that those who breach the public trust for private gain or induce such breach shall be liable for monetary penalties.

In Position Statement 08-02 (Travel), the Commission recognized that travel that is not expressly exempted from Sec. 3 may nonetheless be permissible in certain circumstances as a gift to the State or local government, rather than to the public official or employee, when certain specified conditions are met.

#### ***IV. DISCUSSION***

C.R.S. §24-33.5-216 requires that the Governor of the State of Colorado be provided with a security detail for his and his immediate family's protection. The section further allows for a security detail for the Lieutenant Governor (at the discretion of the Governor), and for any governor-elect. The Commission is advised by the requester that members of the security detail accompany the official to most public events for security reasons and that the necessity of a ticket to such events is routinely waived for them. As the requester presented it to the Commission, compelling members of the

security detail to pay the ticketed price to attend events would force an untenable choice for the official, namely, to forego attending the event; to attend the event without security; or to purchase tickets for the members of the security detail.

The Commission believes it clear that the Colorado State Patrol members who are assigned to protect government officials are doing so for the benefit of the State. Members of these security details are not personally benefiting from attendance at these events; rather, they are attending these events for the sole purpose of providing a level of security and protection that is required by law. The ultimate beneficiary of the event admission is the State of Colorado, not the individual State Patrol member. Further, the Commission believes that there is no inherent or potential conflict of interest or appearance of impropriety in this instance.

#### ***V. CONCLUSION***

It would not be a violation of Colorado Constitution Art. XXIX for Colorado State Patrol members assigned to the security detail of the Governor, the Lieutenant Governor, or any governor-elect to accept free admission to events with an admission price in excess of \$50, when they are attending such events with any of those officials as part of their official duties. The Commission believes that such free admission is a gift to the State of Colorado, rather than to the individual State Patrol member.

#### **The Independent Ethics Commission**

*Nancy E. Friedman, Chairperson*

*Matt Smith, Vice Chairperson*

*Sally H. Hopper, Commissioner*

*Larry R. Lasha, Commissioner*

*Roy Wood, Commissioner*

Dated: April 6, 2009