



## **JUDICIAL INVESTIGATION COMMISSION**

212 Dickinson Street  
Post Office Box 1629  
Charleston, West Virginia 25326-1629  
(304) 558-0169 FAX (304) 558-0831

**August 18, 1995**

Re: JIC Advisory Opinion 1995-21

Dear

In a letter to Counsel dated June 8, 1995, you asked for an advisory opinion regarding whether a magistrate can serve as a municipal judge appointed by a mayor. You indicate that the position would require one night per week at a time when the magistrate is not on duty and would be a paid position. Your letter was reviewed by the Commission at its recent meeting.

The Constitution of West Virginia provides guidance on this question. Article 8, §7, of the Constitution of West Virginia states in pertinent part:

No justice, judge or magistrate shall hold any other office, or accept any appointment or public trust, under this or any government; nor shall he become a candidate for any elective office or nomination thereto except a judicial office; . . .

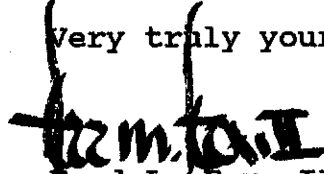
Based on this language contained in the Constitution a magistrate could not serve in any other office or accept any appointment for public trust. A municipal judge is an office established under the provisions of Article 8, §11, of the Constitution of West Virginia. The Commission felt that it is, therefore, impermissible for a magistrate to serve as a municipal judge based upon the language contained in the State Constitution.

- 2 -

August 18, 1995

It is hoped that this opinion addresses all the issues which you have raised in your correspondence. If there are any other questions regarding these matters, do not hesitate to contact the Commission.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Fred L. Fox, II". The signature is stylized with a large, sweeping initial "F" and a prominent "II" at the end.

Fred L. Fox, II, Chairman

FLF, II/bl