# JUDICIAL INVESTIGATION COMMISSION

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June 7, 1996

Re:  JIC Advisory Opinion 1996-16

Dear

Your recent correspondence to the Judicial Investigation Commission in which you seek an advisory opinion was reviewed by the Commission at its recent meeting.  You stated that you are currently employed as an advocate for victims of domestic violence in _____ County.  As an advocate for victims of domestic violence your duties include accompanying them to magistrate court to file domestic violence petitions and serving as an advocate for them at domestic violence hearings.  You also indicated that you are a candidate for Magistrate in _____ County.  You asked whether you could continue in your current position as an advocate while being a candidate for magistrate.

Canon 5A(2) is the only section of the Code of Judicial Conduct which requires an individual to resign if becoming a candidate for non-judicial office.  That section states that "a judge shall resign from judicial office upon becoming a candidate for a non-judicial office either in a primary or a general election . . . "  The Commission is unable to find any Canon which suggests that you must give up your position as an advocate for victims of domestic violence while being a candidate for magistrate.  It is, therefore, the opinion of the Commission that you do not have to resign from your job as an advocate in order to run for the magistrate position.

You should be aware, however, that if you are elected to the judicial office of magistrate you may well be required to recuse yourself from cases involving issues of domestic violence in order to avoid the appearance that you are not impartial or that your impartiality might reasonably be questioned.

It is hoped that this opinion fully addresses the question which you have raised.  If you have any other questions regarding this matter, do not hesitate to contact the Commission.

Very truly yours,

Fred L. Fox, II, Chairman

FLF,II/bl