



JUDICIAL INVESTIGATION COMMISSION

212 Dickinson Street
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November 25, 1996

Re: JIC Advisory Opinion 1996-26

Dear

Your request for an advisory opinion addressed to Counsel for the Judicial Investigation Commission was reviewed at the Commission's recent meeting. In that letter you stated that you were elected on November 5, 1996, as Magistrate in

County and that you are considering hiring the present sheriff's wife as your magistrate assistant. You stated that she has extremely good office skills and has worked as the prosecutor's secretary in your county. She also has a great deal of knowledge about the court system, and you feel that she would make an excellent magistrate assistant except for the fact that she is the sheriff's wife.

The language contained in Canon 2A and B of the Code of Judicial Conduct would address the concern which you have raised. That Canon states in pertinent part:

CANON 2

A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.

A. A judge shall respect and comply with the law, shall avoid impropriety and the appearance of impropriety in all of the judge's activities, and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

B. A judge shall not allow family, social, political, or other relationships to influence the judge's judicial conduct

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or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or knowingly permit others to convey the impression that they are in a special position to influence the judge . . .

It is the feeling of the Commission that because of the sheriff's role in law enforcement in your county the employment of his wife as your magistrate assistant would not be permitted under the language set forth from Canon 2.

Furthermore, the sheriff's role in law enforcement would necessitate his appearance in magistrate court on many cases. This would require disclosure by you of the magistrate assistant's relationship to the sheriff and perhaps your disqualification in a significant number of cases. See Canon 3E(1) and Commentary.

If you have any further questions regarding this matter, do not hesitate to contact the Commission.

Very truly yours,



Fred L. Fox, II, Chairman

FLF,II/bl