



## JUDICIAL INVESTIGATION COMMISSION

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February 5, 1997

Re: JIC Advisory Opinion 1997-01

Dear

Your letter to Counsel to the Judicial Investigation Commission in which you sought an advisory opinion was reviewed by the Commission at its recent meeting. In that correspondence you stated that the Mental Hygiene Commissioner in \_\_\_\_\_ County is the acting chairperson and a member of the Board of Directors of the \_\_\_\_\_ Judicial Circuit Public Defender Corporation. The public defenders are charged with representing persons at commitment hearings before the Mental Hygiene Commissioner pursuant to Chapter 29, Article 21, Section 2(2) of the West Virginia Code. You stated that the Mental Hygiene Commissioner also accepts appointments as criminal defense counsel while acting as the acting chairperson and a member of the Board of Directors of the \_\_\_\_\_ Judicial Circuit Public Defender Corporation. You asked for an advisory opinion regarding the propriety of the Mental Hygiene Commissioner serving as a director of the Public Defender Corporation.

The inquiry which you make is addressed by Canon 4C(3)(a) of the Code of Judicial Conduct. It states as follows:

Canon 4. A judge shall so conduct the judge's extra-judicial activities as to minimize the risk of conflict with judicial obligations.

C. Governmental, Civic, or Charitable Activities.

(3) Civic and Charitable Activities. - A judge may participate in civic and charitable activities that do not reflect adversely upon the judge's impartiality or interfere

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with the performance of the judge's judicial duties. A judge may serve as an officer, director, trustee, or non-legal advisor of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members subject to the following limitations:

(a) A judge should not serve if it is likely that the organization will be engaged in proceedings that would ordinarily come before the judge or would be engaged in adversary proceedings in any court.

Based upon the information which you have provided the Commission and the language set forth in the pertinent part of Canon 4, it is the opinion of the Commission that the Mental Hygiene Commissioner may not serve as a member of the Board of Directors of the Judicial Circuit Public Defender Corporation.

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

Very truly yours,



Fred L. Fox, II, Chairman

FLF,II/bl