



## JUDICIAL INVESTIGATION COMMISSION

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

February 7, 1997

Re: JIC Advisory Opinion 1997-07

Dear

In a letter to Counsel to the Judicial Investigation Commission you, pursuant to Rule 2.13 of the Rules of Judicial Disciplinary Procedure, sought an advisory opinion on a draft protocol for the participation of judicial officers on domestic violence coordinating councils. You stated in your letter that the Supreme Court has established a policy of supporting the creation of these councils and wants judicial officers to participate under the proper circumstances.

The draft protocol which was attached to your request states in part that "a number of local communities have established domestic violence coordinating councils in an effort to address the local problems experienced in responding to domestic violence in light of the community's unique characteristics and resources." The protocol also stated that "the coordinating council themselves are not intended to discuss specific cases or to be a forum for individual complaints. Such an approach would preclude involvement of the judiciary as an activity prohibited by the Code of Judicial Conduct. Rather, the purpose of the councils is to identify the roadblocks or holes in the current response system for victims of domestic violence, arrive at solutions to fill those gaps, and attempt to implement a strategy which suggests victims in their efforts to break the cycle of violence. The strategy itself would involve ways in which victims could more effectively use all

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of the tools and resources available in developing a plan which affords them safety during the process of leaving the abusive environment."

The protocol further stated that "supervising circuit judges can play a vital role in the success of local coordinating councils. Their involvement, adherence to the limitations placed on judicial officers by the Code of Judicial Conduct can be clearly articulated. Misinterpretations of the purpose of the councils can be clarified and involvement by magistrates and other court personnel can be focused on general policy and process discussions and determinations. As a result, the nonjudicial members of the council may gain a better understanding of the requirements and standards judicial officers must apply to each case as opposed to, for example, protocols which law enforcement officers are to follow. Likewise, judge and magistrates would benefit from the opportunity by gaining a keener sense of awareness of the difficulties experienced by victims, service providers, and law enforcement officers. The exchange of ideas may not lead to a complete eradication of the problems, but the improved communication should create an atmosphere where mutual appreciation of roles, existing constraints, and possible solutions can be openly discussed."

In reviewing the request for an advisory opinion on the draft protocol the Commission reviewed a number of the Canons of the Code of Judicial Conduct for guidance.

The Commission reviewed Canon 1, Canon 2A, Canon 3B(2), Canon 4A, C(1), (2), (3)(a) while addressing the inquiry which you have raised. These Canons state in pertinent part:

Canon 1. A judge shall uphold the integrity and independence of the judiciary.

A. An independent and honorable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing high standards of conduct, and shall personally observe those standards so that the integrity and independence of the judiciary will be preserved. The provisions of this Code are to be construed and applied to further that objective.

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.

Canon 3. A judge shall perform the duties of judicial office impartially and diligently.

B. Adjudicative responsibilities. -

(2) A judge shall be faithful to the law and maintain professional competence in it. A judge shall not be swayed by partisan interest, public clamor, or fear of criticism.

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

A. Extra-judicial activities in general. - A judge shall conduct all of the judge's extra-judicial activities so that they do not:

- (1) cast reasonable doubt on the judge's capacity to act impartially as a judge;
- (2) demean the judicial office; or
- (3) interfere with the proper performance of judicial duties.

C. Governmental, civic, or charitable activities. - (1) Governmental activities. - A judge may appear at a public hearing before, or otherwise consult with, an executive or legislative body or official on matters concerning the law, the legal system, or the administration of justice or when acting pro se in a matter involving the judge or the judge's interests, subject to the requirements of this Code.

(2) Quasi-judicial activities. - A judge may serve as a member, officer, or director of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice. A judge may assist such an organization in raising funds and may participate in their management and investment, but should not personally participate in public fund-raising activities. A judge may make recommendations to public and private fund-granting agencies on projects and programs concerning the law, the legal system, and the administration of justice.

(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 with the performance of the judge's judicial duties. A judge may serve as an officer, director, trustee, or non-legal adviser of an educational, religious, charitable, fraternal,

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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 will be regularly engaged in adversary proceedings in any court.

After reviewing these Canons it is the opinion of the Commission that the goals of the coordinating councils to address domestic violence issues as set forth in the draft protocol would constitute a violation by a judge participating in the councils of Canon 1, Canon 2A, Canon 3B(2), and Canon 4C(3)(a) of the Code of Judicial Conduct. It is the feeling of the Commission that the goals, as set forth, go beyond the improvement of the law, the legal system, or the administration of justice. They would involve judges in discussions of strategies, supporting victims, and close association with individuals who would be appearing in adversary proceedings in court on a regular basis. While the draft protocol for participation of judicial officers on domestic violence coordinating councils contains clearly noble objectives, it is the feeling of the Commission that the current goals as set forth in the protocol would cause the aforesaid Canons of the Code of Judicial Conduct to be violated if judicial officers participated in the councils.

It is hoped that this opinion fully addresses the inquiry which you have made. If there is any further question regarding this matter, do not hesitate to contact the Commission.

Very truly yours,

  
Fred L. Fox, II, Chairman

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