



JUDICIAL INVESTIGATION COMMISSION

212 Dickinson Street
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June 23, 1997

Re: JIC Advisory Opinion 1997-14

Dear

In a recent letter to Counsel to the Judicial Investigation Commission you asked for an advisory opinion regarding how you should handle those cases coming before your court relating to the _____ City Police Department. You stated that your wife was elected to the Council of the City of _____ and will take office officially on July 1, 1997. You indicated that your wife would not have any direct supervision of the police department but would vote on salaries for the officers and all city employees and pass city ordinances.

Your inquiry is addressed by language set forth in Canon 3E(1) of the Code of Judicial Conduct which states in relevant part:

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

E. Disqualification. - (1) A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned . . .

The commentary to this section of the Canon states that "under this Rule, a judge is disqualified whenever the judge's impartiality might reasonably be questioned, regardless of whether any of these specific rules in Section 3E(1) apply." The commentary also states that "a judge should disclose on the record information that the judge believes the parties or their lawyers might consider relevant

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to the question of disqualification, even if the judge believes there is no real basis for disqualification."

Based on the information which you have provided to the Commission, it would appear that you do not have to automatically recuse yourself from all cases involving the War City Police Department. See State ex rel. Brown v. Dietrick, 191 W. Va. 169, 444 S.E.2d 47 (1994). You should, however, disclose your wife's relationship to the City of War when a case involving the War City Police Department comes before your court. The parties and their attorneys could then decide whether to seek your disqualification from that case.

If you have 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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