



JUDICIAL INVESTIGATION COMMISSION

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March 10, 2000

JIC Advisory Opinion 2000-12

Dear Judge :

In a recent letter to the Judicial Investigation Commission you asked for an advisory opinion. In your correspondence you stated that the local Pro Bono Domestic Violence Project has approached you and asked for your support getting the project off the ground and has asked you to write a letter to be transmitted to all the lawyers in County asking for their support. In your letter to the Commission you enclosed a draft of the correspondence which you have prepared and which you asked for an opinion regarding whether you could ethically promote this type of project.

The letter which you proposed to send would read as follows:

The West Virginia Coalition against domestic violence in conjunction with West Virginia University and the West Virginia Family Protection Services Board is developing a project to provide pro bono legal services to victims of domestic violence in thirteen (13) separate pilot projects. Because of the location of the Women's Resource Center in County, West Virginia, the Circuit has been designated as one of the pilot projects.

The purpose of the project is to provide legal assistance to victims of domestic violence at final hearings before the Magistrate. The current project in County anticipates the involvement of private attorneys one night every two to three months.

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The logistical problems are great, but this Court believes that they can be overcome. The project developers have asked for the support of the Circuit Court of _____ County in getting this project up and running.

While many of you may deal in domestic violence cases, most do not and according to the information provided to this Court, in most instances, the victims of domestic violence, when they appear for the final domestic violence hearing, appear pro se.

This Court believes that the administration of justice and the integrity of the Court could be enhanced by the participation of volunteer pro bono attorneys in these matters. The participation of attorneys in these cases would insure the efficient handling of these matters, and would likewise insure that appropriate information is provided to the Magistrates so that these ladies and gentlemen can make well-reasoned decisions based upon all the appropriate information available.

As Chief Judge of the Circuit Court of _____ County, I encourage all lawyers to consider meeting their pro bono obligation under the Rules of Ethics by volunteering to participate in this program.

As Judge, I can assure you that I would much rather have one or two lawyers involved in a domestic case as opposed to having one or two pro se litigants. The participation of lawyers in these domestic conflicts has a tendency to calm emotions and further enhances the abilities of the triers of fact to be able to make reasoned decisions.

I encourage you all to respond favorably when contacted by the Women's Resource Center and/or the _____ County Domestic Violence community Response Team when you are asked to participate in this program.

To address the issue which you have raised the Commission reviewed Canon 2 of the Code of Judicial Conduct. That Canon states in relevant 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.

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

After reviewing these sections of Canon 2 and the correspondence which you have been asked to send to the attorneys in your circuit, it is the opinion of the Commission that you may not send the correspondence. It is the feeling of the Commission that the letter signed by you would conflict with those sections of Canon 2 quoted above.

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

Very truly yours,



John W. Bennett, Chairman

JWB:nb