



JUDICIAL INVESTIGATION COMMISSION

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March 23, 2001

JIC Advisory Opinion 2001-08

Dear Magistrate :

In a recent letter to the Judicial Investigation Commission you asked for an advisory opinion. You stated that there was a recent "town meeting" of interested and concerned citizens about on going drug and violence problems in a certain area of your county. You stated that two local newspapers were in attendance and carried several news articles about the meeting including quotes from one of the local police chiefs accusing the county magistrates of some things that are not true. You asked if you, as a judicial officer, can attend their meetings and if you could respond to the accusations against you.

To address the questions which you have raised the Commission reviewed Canon 2A and Canon 3A and 3B(2)(9) of the Code of Judicial Conduct. Those relevant sections of the Canons state as follows:

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 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.

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A. Judicial duties in general. - The judicial duties of a judge take precedence over all the judge's other activities. The judge's judicial duties include all the duties of the judge's office prescribed by law. In the performance of these duties, the following standards apply.

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 interests, public clamor, or fear of criticism.

(9) Except for statements made in the course of official duties or to explain court procedures, a judge shall not make any public or nonpublic comment about any pending or impending proceeding which might reasonably be expected to affect its outcome or impair its fairness. The judge shall require similar abstention on the part of court personnel subject to the judge's direction and control.

Based on the language contained in these Canons and the nature of the town meeting which you describe in your correspondence, it is the opinion of the Commission that you should not attend these meetings. The meetings are held to specifically address drug and violence problems in certain areas of your county. You as a judicial officer would have occasion to hear cases involving those issues.

Furthermore, because of the criticism of the judiciary which could come from those meetings and the hostility which could be generated by your attendance at such meetings would be fraught with problems. Based on the language contained in the Canons you must avoid the appearance of impropriety and must not be swayed by partisan interest, public clamor or fear of criticism. Furthermore, you should not place yourself in a position of being asked to comment on pending or impending proceedings.

The West Virginia State Bar has a committee which is established to defend the judiciary in certain cases. You should contact _____, the Executive Director of the West Virginia State Bar at (304) _____, to ascertain whether that committee could respond on behalf of the magistrate system to those criticisms which you consider to be untrue. If you have any further question regarding this matter do not hesitate to contact the Commission.

Very truly yours,



Donald H. Cookman, Chairperson
Judicial Investigation Commission

DHC:nb