

JUDICIAL INVESTIGATION COMMISSION

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April 20, 2001

JIC Advisory Opinion 2001-10

Dear Judge :

Your request for an advisory opinion was reviewed by the Judicial Investigation Commission at its recent meeting. In that correspondence you stated that you had been asked by one of the City of firefighters to make arrangements to have a courtroom and judge available for a mock trial. At the trial, various firefighters and police officers, some of whom may appear before you or your other two judges on a regular basis, will have investigated an arson fire by interviewing witnesses and will then present the evidence in the courtroom. During the mock trial, the attorneys will be tendering at least two witnesses as experts, with the judge ruling on the tenders, various objections, and motions to suppress certain evidence. The goal is to teach them how to put together cases in order to better assist the prosecuting attorney's office and to explain to them the working the trial court.

In reviewing your request and addressing the concerns which you have raised, the Commission reviewed relevant portions of Canon 4 of the Code of Judicial Conduct. That Canon states in relevant part:

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

B. Avocational activities. - A judge may speak, write, lecture, teach, and participate in other extra-judicial activities concerning the law, the legal system, the administration of justice, and non-legal subjects, subjects to the requirements of this Code.

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Based in the language contained in this section of Canon 4, it is the opinion of the Commission that you could engage in the activity you described in your correspondence. However, care should be taken by you if you conduct such mock trials not to make statements or comments which may show your predisposition to cases of that kind.

Further, you should be aware of the relevant portions of Canon 3B(9) of the Code of Judicial Conduct which prohibits a judge from making any public or non-public comment about any pending or impending proceeding which might reasonably be expected to affect its outcome or impair its fairness.

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

Very truly yours,

A handwritten signature in black ink, appearing to read "Donald H. Cookman", with a long horizontal flourish extending to the right.

Donald H. Cookman, Chairperson
Judicial Investigation Commission

DHC:nb