



**JUDICIAL INVESTIGATION COMMISSION**

City Center East - Suite 1200 A  
4700 MacCorkle Ave., SE  
Charleston, West Virginia 25304  
(304) 558-0169 • FAX (304) 558-0831

February 7, 2014

Re: JIC Advisory Opinion 2014-05.

Dear

Your recent request for an advisory opinion was reviewed by the Judicial Investigation Commission. The factual scenario giving rise to your request is as follows: You recently received a request to participate in the Community Response Team ("STOP team") coordinated by the Family Refuge Center ("Center") in [redacted] County. The Center is a community-based domestic violence and sexual assault project that serves [redacted] County. The Center's motto is "Helping Families, Empowering Victims, Changing Lives," and the agency is "committed to ending physical, sexual and emotional abuse in families." The Center's services include but are not limited to "legal advocacy," "children's advocacy" and "a STOP team." The core STOP Team includes the [redacted] County Prosecutor's Office, the Family Refuge Center, the [redacted] Police Department, and the [redacted] County Sheriff's Department.

One of the goals of the STOP team is to improve the response of service agencies and the judicial/legal community to victims of domestic violence, sexual assault, stalking and dating violence. To that end, the team has received Violence Against Women Act ("VAWA") grant money over the years and has used some of it to hire a half-time assistant prosecutor in [redacted] County to prosecute domestic violence cases, a law enforcement officer to

investigate domestic violence cases, and a victim advocate who provides services to all victims at protective order hearings in Magistrate and/or Family Court.

The request for your participation noted that the Center was getting ready to renew its VAWA grant application. Not only did the Center ask you to participate in the STOP team, but it also wanted you to sign a pre-prepared grant application letter of support "showing your commitment to the Family Refuge Center, as well as the Community Response Team." The form letter stated in pertinent part that you "will commit to the Community Response Team by the involvement of our personnel in meetings and through in-kind contributions."

You want to know if it is a violation of the Code of Judicial Conduct to participate on the STOP team and to write any kind of letter of support for the Center's grant application.

To address the question, the Commission has reviewed Canon 4C(3) of the Code of Judicial Conduct. Judges are permitted to "participate in civic activities that do not reflect adversely upon the judge's impartiality or interfere with the performance of the judge's judicial duties. Of particular importance to the Commission is the prohibition found in Canon 4C(3)(a) which provides that "[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. The Commentary to this provision also speaks to the affiliation of a judge with organizations that may come before the court for adjudication. Canon 4C(3)(b) states that "[a] judge should not solicit funds for any educational, religious, charitable, fraternal or civic organization, or use or permit the use of the prestige of office for that purpose. . . ."

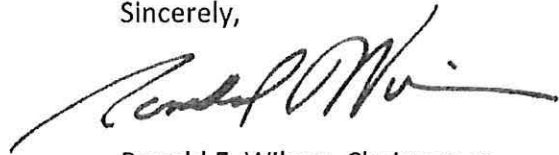
Meanwhile, Canon 2A cautions judges to "act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary" and to "avoid impropriety and the appearance of impropriety in all of the judge's activities." The Commentary to Canon 2A advises a judge that he or she "must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on the judge's conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly." This proscription applies to both the professional and personal conduct of a judge.

Based upon the foregoing, it is the opinion of the Commission that it would be improper for you to participate in the STOP team given the makeup of the group, the fact that the Core members regularly appear before you only on behalf of the State in contested cases, and the team's goals and objectives which include the hiring of an assistant prosecutor and a law

enforcement officer (*See also JIC Advisory Opinions 3/22/2011, 10/5/2011 and 3/11/2010 attached hereto*). It would also be inappropriate for you to send a letter of support on behalf of the Center to aid in its attempt to obtain VAWA grant money. Such activity would clearly constitute a solicitation of funds, and at the same time, you would also be sanctioning the "use of the prestige of judicial office" for that purpose.

We hope this opinion fully addresses the issue which you have raised. If there is any further question regarding this matter, please do not hesitate to contact the Commission.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald E. Wilson", with a long horizontal flourish extending to the right.

Ronald E. Wilson, Chairperson  
Judicial Investigation Commission

REW/tat