



**JUDICIAL INVESTIGATION COMMISSION**

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

October 27, 2015

Re: JIC Advisory Opinion 2015-16.

Dear

Your recent request for an advisory opinion to Counsel was reviewed by the Judicial Investigation Commission at its October 23, 2015 meeting. The facts giving rise to your request are as follows: During the course of a hearing before you involving a domestic violence petition, the Respondent threatened a local attorney who was not a party to the proceeding. At the conclusion of the hearing, you entered a domestic violence protective order against Respondent.

Meanwhile, you were concerned about the threat made against the attorney. The Petitioner had formerly worked for the attorney. Additionally, the respondent believed that the attorney had some involvement in his involuntary commitment to a mental health facility. Subsequently, you received a verified Petition Seeking an Order to show Cause for Respondent's Contempt of the Domestic Violence Protective Order. According to you, there were numerous and lengthy writings by the Respondent attached as exhibits which further caused you to believe that Respondent may harm the attorney in question. You want to know if you can tell the attorney of Respondent's threats.

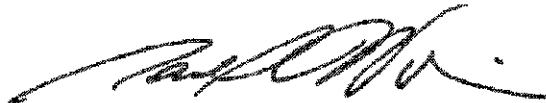
Ordinarily Canon 3B(11) of the Code of Judicial Conduct prevents a judge from disclosing or using, "for any purpose unrelated to judicial duties, nonpublic information acquired in a judicial capacity." The term "nonpublic information" is defined as "information that, by law, is not available to the public. Nonpublic information may include but is not limited to: information that is sealed by statute or court order, impounded, or communicated in camera; and information offered in grand jury proceedings, presentencing reports, dependency cases, or psychiatric reports." In JIC Advisory Opinion 2015-07, the Commission found that a judge could not disclose to law enforcement the telephone

number and address of a fugitive from justice since he had learned of the information in a guardianship hearing involving a minor child.

However, the Commission believes the instant facts are distinguishable. The Commission is of the opinion that no violation of the Canon occurs where a judge has credible information of a threat involving a non-party to a proceeding and discloses to that individual minimal information necessary to combat the harm. Importantly, the judge's revelation should be limited to the identity of the person threatening physical harm and an accounting of the threats involved.

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

Sincerely,

A handwritten signature in black ink, appearing to read 'Ronald E. Wilson', with a stylized flourish at the end.

Ronald E. Wilson, Chairperson  
Judicial Investigation Commission

REW/tat