



**JUDICIAL INVESTIGATION COMMISSION**

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

December 21, 2015

Re: JIC Advisory Opinion 2015-25.

Dear

Your recent request for an advisory opinion was reviewed by the Judicial Investigation Commission at its December 18, 2015. Meeting. The factual situation you presented is: At a recent judicial conference the Public Defender Services Director informed the judges that his office has determined that a significant number of court appointed lawyers have been over billing the State. He further advised that he is now requiring those lawyers to sign conciliatory agreements that obligates them to self-report any overbilling to the Office of Lawyer Disciplinary Counsel or obtain an opinion which states that he/she is not required to self-report.


You have learned that two lawyers who regularly practice in your circuit have entered into conciliatory agreements with Public Defender Services. You do not know if the lawyers have self-reported or obtained the requisite opinion. You want to know if you have a duty to report what you have learned to the Office of Lawyer Disciplinary Counsel.

To address your questions the Commission reviewed Rules 2.15(B) of the new Code of Judicial Conduct which provides that "[a] judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question regarding the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects shall inform the appropriate authority."

In applying the foregoing to your factual scenario, the Commission's opinion is that you do not have to report the information unless you made a finding that the lawyer overbilled and that his/her actions were unethical. Otherwise, it would be the responsibility of the Director of Public Defender Services to report the matter if he concludes that an ethical obligation was breached by the lawyer.

It is hoped that this opinion fully addresses the issues which you have raised. If there is any further question regarding this matter 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