



**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 25, 2021

Re: JIC Advisory Opinion 2021-19

Dear Magistrate

Your recent request for an advisory opinion was reviewed by the Judicial Investigation Commission. The facts giving rise to your request are as follows:

After a long, successful career as a law enforcement officer and Sheriff, you recently accepted an appointment as Magistrate. For about ten years you have been a member of the Fraternal Order of Police (FOP). However, the extent of your involvement in the FOP has been limited to just paying dues. You have never attended a meeting or attended any event sponsored by the FOP. You do not even have a list of other members. The only benefit you receive from membership is a small life insurance policy. You would like to know if you can remain a member of the FOP while you are a Magistrate.

To address the questions, the Commission has reviewed Rules 3.1 (B), and (C) of the Code of Judicial Conduct which provide:

A judge may engage in extrajudicial activities, except as prohibited by law or this Code. However, when engaging in extrajudicial activities, a judge shall not:

- (B) participate in activities that will lead to frequent disqualification of the judge;
- (C) participate in activities that would appear to a reasonable person to undermine the judge's independence, integrity or impartiality;...

Based upon the foregoing, the Commission is of the opinion that you cannot belong to this organization while you are a magistrate. Although the organization you belong too may well be fraternal, it is also clearly aligned with law enforcement officers who regularly appear in your courtroom. Membership in this organization may also create a public perception that you are pro-law enforcement and therefore, pro-prosecution.

Thank you for your inquiry. If there is any further question regarding this matter please do not hesitate to contact the Commission.

Sincerely,



Alan D. Moats, Chairperson  
Judicial Investigation Commission

ADM/bjl