



JUDICIAL INVESTIGATION COMMISSION

WV Judicial Tower - Suite 700 A
4700 MacCorkle Ave., SE
Charleston, West Virginia 25304
(304) 558-0169

March 9, 2023

Re: JIC Advisory Opinion 2023-07

Dear _____ :

Your request for an advisory opinion to Counsel was recently reviewed by the Judicial Investigation Commission. A sheriff's employee was recently hired as an adult probation officer. The new probation officer would like to coach high school track. The probation officer would also like to work part-time for the sheriff's office to keep his/her law enforcement certification up to date. The probation officer does not need to maintain law enforcement certification to serve as a probation officer. He/She would work community service details for the Sheriff such as fairs and local sporting events and transportation for mental hygiene cases and extraditions. You want to know if the probation officer can serve as a coach and/or work part time for the sheriff's department.

To address your questions, the Commission has reviewed Rules 2.12 and 3.1 of the Code of Judicial Conduct which states:

Rule 2.12 – Supervisory Duties

- (A) A judge shall require court staff, court officials, and others subject to the judge's direction and control to act in a manner consistent with the judge's obligations under this Code.

Rule 3.1 – Extrajudicial Activities in General

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:

- (A) participate in activities that will interfere with the proper performance of the judge's judicial duties;
- (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;
...
- (E) make use of court premises, staff, stationary, equipment or other resources, except for incidental use for activities that concern the law, the legal, system, or the administration of justice, or unless such additional use is permitted by law.

The Commission has no objection to the probation officer coaching high school track. However, the Commission is of the opinion that the probation officer cannot concurrently work for the sheriff's department in any capacity. Judges and their staff members must remain neutral and detached at all times. Concurrent service as a probation officer and a sheriff's employee could create in the mind of members of the public, however wrong they may be, that the probation officer favors law enforcement. Therefore, it would be improper for the probation officer to concurrently work for the sheriff's department.

The Commission hopes that this opinion fully addresses the issues which you have raised. Please do not hesitate to contact the Commission should you have any questions, comments or concerns.

Sincerely,



Alan D. Moats, Chairperson
Judicial Investigation Commission