



**JUDICIAL INVESTIGATION COMMISSION**

West Virginia Judicial Tower - Suite 700 A

4700 MacCorkle Ave., SE

Charleston, West Virginia 25304

(304) 558-0169 • FAX (304) 558-0831

June 13, 2019

Re: JIC Advisory Opinion 2019-16

Dear Judge

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:

On June 12, 2019, you issued a rule to show cause against the West Virginia Department of Health and Human Resources in an abuse/neglect matter upon learning that there is a backlog of 1,100 cases in your jurisdiction that have been referred but for which no action has been taken for over thirty days. The media has learned that a crisis team is being sent to your county to begin working on the issue and would like you to comment. You want to know whether you can speak to the media about the backlog and that you issued the show cause order.

To address your question, the Commission has reviewed Rule 2.10 of the Code of Judicial Conduct which states in pertinent part:

**Rule 2.10 -Judicial Statement on Pending and Impending Cases**

- (A) A judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending or impending in any court, or make any nonpublic statement that might substantially interfere with a fair trial or hearing.

Comment [1] to the Rule states that the "restrictions on judicial speech are essential to the maintenance of the independence, integrity and impartiality of the judiciary.

Based upon the foregoing, the Commission is of the opinion that Rule 2.10(A) precludes you from making any statement about the matter since the rule to show cause is pending in your Court. It is hoped that this opinion fully addresses the issues which you have raised. Please do not hesitate to contact the Commission if you have any other questions regarding this matter.

Sincerely,



The Honorable Alan D. Moats, Chairperson  
Judicial Investigation Commission

AMD/tat