



Advisory Committee on the Code of Judicial Conduct

Hon. Frank H. Allen, Jr. Chairman
Hon. Thomas A. Donnelly
Prof. William T. MacPhearson, Jr.
Hon. Marie A. Baca

May 13, 1996

The Honorable

Judicial Advisory Opinion No.96-05

Dear Judge

The Judicial Advisory Committee is in receipt of your letter of April 10, 1996, requesting an opinion as to whether you, as a _____ Judge, may initiate and participate in an educational program conducted through a newspaper column or talk radio format, and which programs are designed to encourage the citizens of _____ and the general public to write to you personally with questions, concerns, or comments relating to the operation of the _____ court. Specifically, you have inquired whether such program or programs would be ethically permissible. You have further indicated that the initial drafts of responses to letters you receive will be prepared by a volunteer court ombudsman, that you will modify and edit the responses after regular court hours, and that the only cost included in the court budget would be for rental of a local post office box.

SCRA 1986, Canons 21-300(B)(10) and 21-500(B) (Repl. 1995) are applicable to your inquiry. Canon 21-300(B) (10) provides in applicable part:

A judge shall not, while a proceeding is pending *or* impending in any court, make any public comment that might reasonably be expected to affect its outcome or impair its fairness or make any nonpublic comment that might substantially interfere with a fair trial or hearing. (Emphasis added.)

Canon 21-500(B) provides:

B. Avocational activities. A judge may speak, write, lecture, teach and participate in other extra-judicial activities concerning the law, the legal system, the administration of justice and non-legal subjects, subject to the requirements of this Code.

A similar question to that posed by your inquiry here was addressed by a Judicial Advisory Committee in Alabama. The committee determined that judges could participate in the publication of a newspaper column designed to improve the law, the legal system, and the administration of justice if they received no compensation for preparing such column. See Alabama Judicial Advisory opinion 86-265 (1986). That opinion also cautioned that the judges involved in such project should refrain from giving any legal advice or commentary concerning pending cases involving substantive law. Similarly, a Florida Judicial Advisory Committee held that it is permissible for a judge to write a purely informational column in a local weekly newspaper explaining the function and duties of a county court judge. Florida Judicial Advisory Opinion 77-21 (Issue 5, 1978). A Michigan Advisory Committee also found that it was ethically permissible for a judge to write a regular legal column of a general informational nature for a newspaper or to participate in radio or television programs of a similar nature. Michigan Judicial Advisory Formal Opinion C-217 (July 1979); see also New York Judicial Advisory Opinion 88- 133 (Dec. 8, 1988) ("A judge may write a weekly newspaper column about the law and courtroom procedure."); Texas Judicial Advisory Opinion 63 (1982) ("A judge may write a weekly column about legal matters for newspaper publication).

In accord with the above authorities, we think it is clear that judges are free to write about the law, the legal system, and the administration of justice with a view toward explaining the judicial system or improving the law; however, in doing so, a judge should be careful not to cast doubt on his or her impartiality, and should scrupulously refrain from giving legal advice or advisory opinions, or commenting on pending cases, matters or controversies that may come before his or her court or any other court. It is also inappropriate for a judicial officer to address or answer questions which are intended to, or might have the effect of, committing the judge to a specific ruling with respect to matters or issues which may subsequently come before the judge's court; this would deprive the judge of the impartiality necessary to perform judicial duties.

Subject to the restrictions noted above, we conclude that your participation in such informational program or programs would not be improper. Since the rental of a separate post office box for such programs would not directly benefit the operation of the _____ court and relates generally to avocational matters, we believe public funds should not be expended for such purposes. See Canon 21-500(D) (1) (a).

Yours very truly,

Chairman, Judicial Advisory
Committee

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