Judicial Inquiry Commission
800 SOUTH MCDONOUGH STREET
SUITE 201
MONTGOMERY, ALABAMA 36104

October 29, 1993

This is in response to your request for a clarification of the advisory opinion issued by the Judicial Inquiry Commission to you on August 27, 1993. Your question is whether you, as a part-time municipal judge in the City of Fairhope, are prohibited from hosting any social event that is limited to the police department of the City of Daphne, where you serve as the municipal prosecutor.

In Advisory Opinion 93-498, this Commission held that a part-time municipal judge should not host an "annual" cookout to which he extends an invitation to any municipal police department. It remains the opinion of this Commission that under the Canons of Judicial Ethics, you, as a municipal judge for the City of Fairhope, should not invite the Fairhope Police Department - as a department - to any social event unless the other departments of municipal government are also invited.

However, the Canons of Judicial Conduct do not apply to the conduct of a municipal prosecutor. <u>As a municipal prosecutor</u> you may invite any police department to any social function you choose to host. In doing so you must make every effort not to hold yourself out as a municipal judge. It is the opinion of this Commission that you cannot avoid the appearance of impropriety by extending an invitation to the Fairhope Police Department even if that invitation is extended in your capacity as municipal prosecutor for the City of Daphne.

As this Commission stated in Advisory Opinion 93-498:

> "The hosting of a cookout on an annual basis for a police department lends the appearance that you are attempting to 'curry favor' with a special interest group. Such conduct, no matter how innocently conceived, provides reasonable ground to assume that the judge would automatically give more credence to the testimony of a police officer than that of any other witness."

This advisory opinion has been considered by and is the opinion of the entire Commission.