94-538

# Judicial Inquiry Commission

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December 12, 1994

This is in response to your request for an advisory opinion from the Judicial Inquiry Commission. From the information you have provided, the Commission considers the question presented is whether it would constitute a violation of the Alabama Canons of Judicial Ethics for a judge to sentence a criminal defendant to attend a state approved DUI court referral program taught by the judge's bailiff.

It is the opinion of this Commission that a judge should not sentence any defendant to any "DUI school" taught by the judge's bailiff. Such an arrangement is fraught with the appearance of impropriety and does not promote public confidence in the integrity and impartiality of the judiciary. Canons 1 and 2A. A judge should neither "convey [nor] permit others to convey the impression that they are in a special position to influence him." Canon 2C.

The situation presented here involves application of ethical principles similar to those involved in the circumstances presented in Advisory Opinions 88-339 (judge may not lease building he jointly owns to the Regional Council on Alcoholism to conduct legally mandated driving schools for convicted DUI offenders, where judge hears DUI appeals from municipal and district court) and 93-468 (judge should favor no rehabilitative facility over another without reason and should also insure that judge has no non-judicial connection to any facility to which defendant is sentenced).

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