

Judicial Inquiry Commission

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The Judicial Inquiry Commission has considered your request for an advisory opinion as to whether a circuit judge may establish a citizen's committee to advise him and other judges in the circuit on potential reforms to improve the judicial process in the county. You stated that this committee would not provide advice concerning any particular case or issue before any court, but rather would provide an opportunity to express citizen's views on the state of the judiciary in the county and to study any perceived important problems with the process with a view to developing recommendations which could be forwarded to the appropriate body, e.g., the county legislative delegation, the Alabama Supreme Court, or the local judges.

This Commission may only provide advisory opinions concerning whether action contemplated or proposed to be taken by a judge might constitute a violation of the canons of judicial ethics. Rule 17, Rules of Procedure of Judicial Inquiry Commission. Your inquiry is controlled primarily by Canon 4, which provides as follows:

A judge, subject to the proper performance of his judicial duties, may engage in the following quasi-judicial activities, if in doing so he does not cast doubt on his capacity to decide impartially any issue that may come before him:

- A. He may speak, write, lecture, teach, and participate in other activities concerning the law, the legal system, and the administration of justice.
- B. He may appear at a public hearing before an executive or legislative body or official and may otherwise consult with an executive or legislative body or official on matters concerning the law, the legal system, and the administration of justice.
- C. He may serve as a member, officer, or director of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice. He may assist such an organization in raising funds and may participate in their management and investment. He may make recommendations to public and private fund-granting agencies on projects and programs concerning the law, the legal system, and the administration of justice.

The Commentary to Canon 4 notes that a judge is in a unique position to contribute to the improvement of the law, the legal system, and the administration of justice, and is encouraged to do so to the extent that his time permits, either independently or through an organization dedicated to the improvement of the law.

In another context, the Commission has previously indicated that “the administration of justice” includes the functions of the legal system by which and through which cases may be brought before a court, tried, determined, and disposed of and judgments enforced, and that this phrase includes the functions necessary to the proper operation of the court system. Advisory opinion 82-140. The Commission has previously decided that a judge may serve as a member of a Criminal Justice Commission composed of various public officials and formed by a political action group to examine the State’s criminal justice system and develop suggested solutions to problems which might be found within that system (Advisory Opinion 81-111), participate as a member of the Attorney General’s Task Force on Victims and Victims’ Rights which was designed to evaluate current laws and efforts relating to victims and victims’ rights (Advisory Opinion 87-294), serve on a committee created by a city council to study and make recommendations for ways and means of assisting the city police department to more effectively carry out its responsibilities and to formulate programs to reduce and deter crime (Advisory opinion 91-429), and serve as a member of the board of directors of a community corrections program designed to provide alternative solutions to jail time for defendants convicted of misdemeanors (Advisory Opinion 93-502)..

The purpose of the proposed committee appears to be consistent with the purpose of the activities permitted by Canon 4. See also, Canon 3B(l), regarding administrative responsibilities. Therefore, so long as the judge’s participation does not interfere with the proper performance of his judicial duties and does not cast doubt on his impartiality, a judge may establish the proposed committee. In this regard, the judge should bear in mind that the canons must be construed and applied to further the objective of preserving the integrity and independence of the judiciary (Canon 1), and that a judge must avoid even the appearance of impropriety in all his actions and should conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. Canon 2A. Advisory Opinion 90-409 may be somewhat instructive in this regard and is enclosed for your reference.

The Commission assumes that the committee in question would serve without compensation, and that the judge’s participation also will not involve compensation or reimbursement of expenses. Further inquiry may be directed to the Commission if these assumptions are incorrect.