

JUDICIAL INQUIRY COMMISSION

DATE ISSUED: MARCH 17, 2000

ADVISORY OPINION 00-750

SPEAKING AT CIVIC OR CHARITABLE ORGANIZATION FUNCTION

ISSUE

May a judge give a speech at a rally sponsored by a local counseling center that is favorable to and appreciative of those working to make the city safe against rape? **Answer:** No, not under the facts in this case.

FACTS

A circuit judge has been asked to speak at the annual “Take Back the Night” rally sponsored by a local counseling center. The rally involves a march up Montgomery’s Dexter Avenue to the Capital steps by survivors of sexual assaults and others who care deeply about crimes involving sexual assault, and a proclamation that they are taking back the nights in the city and will not remain quiet about this issue. The judge’s speech would be favorable to and appreciative of those who are working to help make the city safe against rape.

The counseling center includes in its operations an organization called the Council Against Rape. The Council Against Rape participates in a Sexual Assault Response Team for the city that also includes representatives from law enforcement, the district attorney’s office, a family advocacy program, a local hospital, the Department of Forensic Sciences, the Alabama Crime Victims Compensation Commission, sexual assault victims/survivors, and the media. The stated purpose of the team is to improve the prosecution rate of criminals who commit sexual assaults while providing immediate support for victims. Its goals include

improving the quality of forensic examinations, trending data on judicial outcome, and providing data for grant funding and research purposes. The team has implemented a program for the performance of forensic examinations at the hospital participating on the team. Support services by the Council Against Rape include the accompaniment of victims to medical and legal proceedings and individual, group, and family counseling.

DISCUSSION

The question presented is primarily governed by Canon 5. Canon 5 provides: “A judge should regulate his extra-judicial activities to minimize the risk of conflict with his judicial duties.” Canon 5B states that a judge “may participate in civic and charitable activities that do not reflect adversely upon his impartiality or interfere with the performance of his judicial duties.”

In Advisory Opinion 87-293, the Commission was asked whether a judge could speak to groups about the problems of child abuse and the activities of a particular child advocacy center that provided services that included gathering evidence necessary for various kinds of legal proceedings. The Commission concluded that the judge was not prohibited under Canon 5 from speaking to groups on the problems of child abuse but, due to the center’s activities in criminal investigation and litigation, he should refrain from any speeches about the center’s activities other than statements that described, “without characterizing those activities.” The Commission noted that Canon 5 prohibits speeches or talks that through their content or otherwise tend to reflect adversely on a judge’s impartiality.

In addressing a similar question in Advisory Opinion 89-389, the Commission stated that the judge “must make every effort to avoid giving the appearance of a predisposition in matters that are likely to come before him and to avoid participation in matters which may otherwise cause his disqualification in such matters.” In speaking to a question about involvement with victims’ rights groups in Advisory Opinion 95-577, the Commission further noted that “the canons must be construed and applied to further the objective of preserving the integrity and independence of the judiciary (Canon 1), and . . . 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.”

It is the opinion of the Commission that the contemplated speech is not permissible under the Alabama Canons of Judicial Ethics. Giving such a speech would reflect adversely on the judge’s impartiality in cases involving sexual assaults, given the ambiance of the event and the partisan activities of the counseling center that is sponsoring the event in connection with the prosecution of criminal cases involving such assaults.

REFERENCES

Alabama Advisory Opinions 87-293, 89-389, and 95-577.

Alabama Canons of Judicial Ethics, Canons 1, 2, 5, and 5B.