JUDICIAL INQUIRY COMMISSION

DATE ISSUED: MARCH 19, 2004 ADVISORY OPINION 04-836

SERVING ON COMMUNITY CORRECTIONS BOARD

ISSUE

Do the Alabama Canons of Judicial Ethics permit a judge to serve as chairman of a community corrections authority board? **Answer:** Yes.

FACTS

A circuit judge serves as chairman of a county's community corrections authority board. The community corrections authority was established under § 15-18-170, *et seq.*, of the Code of Alabama. The primary responsibility of the community corrections authority is the operation of the county's work release center, which is a facility for the incarceration of individuals convicted of criminal offenses in the district and circuit courts.

The circuit judge who is the chairman of the board is in charge of the criminal docket in the county's circuit court. He and the district judge are, therefore, responsible for placing most of the inmates who are incarcerated at the work release center. He has an interest in keeping the center operational in that it provides a valuable resource not otherwise available as an alternative to incarceration in jail or a penitentiary.

DISCUSSION

The Judicial Inquiry 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*.

The Commission has previously concluded that a judge may serve on the board of directors of such a community corrections authority, reasoning that it provides a valuable sentencing alternative, and that Canon 4 encourages judges to engage in activities to improve the law, the legal system and the administration of justice. Advisory Opinion 93-502. In Advisory Opinion 97-681, however, the Commission cautioned that judges who hold such positions should take care that their work with the board does not involve individual supervision of participants or employees, so that judicial responsibilities remain separate from administrative responsibilities with the program.

The inquiring judge expresses a concern that serving as chairman of the community corrections board might cast doubt on his impartiality. Specifically, he states that it might be perceived that he sentenced defendants to the work release center, rather than to probation or to imprisonment at a penitentiary, in order to keep the center operational. In Advisory Opinion 97-678, the Commission decided, in connection with a question about service on the board of a juvenile boot camp facility, that referrals to the facility could not be said to impugn the judge's impartiality because the facility provided otherwise unavailable opportunities for the rehabilitation of juvenile offenders. In other words, it filled a service demand that was not previously met.

In the situation now presented, the judge's only interest in keeping the work release center operational is a public interest shared by all citizens. The Commission does not believe that such an interest casts a doubt on the judge's impartiality in sentencing.

The judge also inquires as to the propriety of a judge serving on the board of directors of an incarceration facility in that such an activity is usually associated with the executive branch of government rather than the judicial branch of government. Canon 5G states the following, in pertinent part:

> It is desirable that a judge should not accept appointment to a governmental committee, commission, or other posi-

> tion that is concerned with issues of fact or policy on matters other that the improvement of the law, the legal system, or the administration of justice or unless required by law.

Since the community corrections authority is concerned with improvement of the administration of justice, service as chairman of its board does not conflict with Canon 5G. Advisory Opinion 97-678; *see also* Advisory Opinions 93-502 and 97-681.

REFERENCES

Advisory Opinions 93-502, 97-678, and 97-681.

Alabama Canons of Judicial Ethics, Canons 4 and 5G.

Rules of Procedure of Judicial Inquiry Commission, Rule 17.

This opinion is advisory only and is based on the specific facts and questions submitted by the judge who requested the opinion pursuant to Rule 17 of the Rules of Procedure of the Judicial Inquiry Commission. For further information, you may contact the Judicial Inquiry Commission, P. O. Box 303400, Montgomery, Alabama 36130-3400; tel.: (334) 242-4089; fax: (334) 353-4043; E-mail: jic@alalinc.net.