

Committee on Judicial Ethics  
Teleconference  
Friday, September 16, 2011

Members present via teleconference: Justice Barry R. Schaller, Chair, Judge Edward R. Karazin, Jr., Vice Chair, Professor Jeffrey A. Meyer and Judge Maureen D. Dennis (after start of meeting). Staff present: Martin R. Libbin, Esq., Secretary.

**MINUTES**

- I. With the above noted members present, Justice Schaller called the meeting to order at 9:36 a.m. Although publicly noticed, no members of the public attended.
- II. Justice Schaller, Judge Karazin and Professor Meyer approved the Minutes of the September 7, 2011 meeting.
- III. The Committee considered Judicial Ethics Informal Opinion 2011-20. A Judicial Official has a family member who is a sworn member of a local police department and who is a “member of a judge’s family residing in the judge’s household” as that phrase is defined in the Code. May the Judicial Official preside over matters (including but not limited to ex parte warrant requests) in which the police department or any officers employed by the police department is a party or witness?

Additional facts include that the family member does not hold a supervisory position and does not exercise any supervisory authority over any other member of the police department.

Consistent with opinions from other jurisdictions, including but not limited to New York Opinion 08-50 and Delaware JEAC 2009-2, as well as the Code’s requirements that Judicial Officials “act at all times in a manner that promotes public confidence in the ... impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety” (Rule 1.2), perform the duties of judicial office fairly, impartially, without bias or prejudice (Rules 2.2 and 2.3(a)), not permit family relationships to influence the Judicial Official’s conduct or judgment, nor convey or permit others to convey the impression that any person or organization is in a position to influence the Judicial Official’s judicial conduct or judgment (Rule 2.4), and disqualify oneself in any proceeding in which the Judicial Official’s impartiality might reasonably be questioned (Rule 2.11), the Committee members present unanimously determined that the Judicial Official may preside over matters in which the police department or any officers employed by the police department that employs the family member is a party or witness, including, but not limited to, ex parte requests for warrants, subject to the following conditions:

1. The family member is not involved in the case in any way or, if the family member is involved in the case, a remittal of disqualification is obtained in accordance with Rule 2.11(c). (If the family member is involved, the Judicial Official may not preside over an ex parte proceeding, since the opposing party would not be available to agree to a remittal of the Judicial Official's disqualification.)
2. The Judicial Official may not preside over any case in which the family member supervises personnel involved in the case, or if such personnel are involved, a remittal of disqualification is obtained in accordance with Rule 2.11(c). While currently the family member does not exercise supervisory authority over any other member of the police department, the Judicial Official needs to monitor the family member's career, as the family member's responsibilities could change over time.
3. The Judicial Official may not preside over any case in which the family member is not involved if the family member has an interest that could be substantially affected by the proceeding (i.e. a lawsuit filed by another officer challenging a promotional examination that the family member also took).

While not required by the Code for cases in which the family member is not involved, the Judicial Official may, if he or she so chooses, disclose to the parties relevant information about the family member's employment.

- IV. The Committee considered Judicial Ethics Informal Opinion 2011-21 concerning the propriety of serving on a statutorily created ongoing governmental commission.
- V. The meeting adjourned at 9:57 a.m.