

## Judicial Inquiry Commission

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February 4, 1981

The Judicial Inquiry Commission has considered your request that the Commission further clarify and explain its written advisory opinion, 80-76, as to whether a judge is disqualified in sitting in certain criminal proceedings. You state that the judge's brother is a member of a law firm, the senior member of which is an appointed part-time assistant District Attorney. Your specific question is as follows:

Must the judge disqualify himself from all or any criminal prosecutions within the judicial circuit, regardless of whether or not the assistant District Attorney participates in any degree in the investigation and/or trial of the criminal case.

As you are aware, disqualification of a judge to hear a certain proceeding is governed by Canon 3C of the Canons of Judicial Ethics. Under that Canon and pursuant to previous opinions of this Commission, it is the opinion of the Commission that in the circumstances you describe disqualification is required only where the senior member of the judge's brother's law firm actually participated as Assistant District Attorney in the trial or the preparation of the case and it is known to the judge that the senior partner so participated.

Sincerely,

JUDICIAL INQUIRY COMMISSION