

Judicial Inquiry Commission

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April 25, 1986

The Judicial Inquiry Commission has considered your request for an opinion concerning whether under the Alabama Canons of Judicial Ethics a trial court judge is required to disclose to a Grand Jury certain matters imparted to him in camera by a defense attorney as grounds for the defense attorney's motion to withdraw as counsel. The judge stated that the information disclosed to him possibly involves criminal activities on the part of the attorney's client and involves the probability of the client not telling the truth when he testifies.

Our review of the Alabama Canons of Judicial Ethics reveals no provision requiring that a judge disclose the information described to a grand jury. The Canons also do not prohibit such a disclosure should a judge feel a civic or personal responsibility to give the information to a grand jury.

While this Commission has no authority to interpret the Code of Professional Responsibility applicable to attorneys, we note that the judge should determine in this instance whether the attorney has a duty to make a disclosure to an appropriate legal authority. If the attorney has such a responsibility and fails to make a disclosure, then the judge may be bound under Canon 3B(3) to take appropriate disciplinary action against the attorney.

Canon 3B(3) provides that:

"A judge should take or initiate appropriate disciplinary measures against a judge or lawyer for unprofessional conduct of which the judge has personal knowledge."

The judge should be mindful of this provision.

Sincerely,

JUDICIAL INQUIRY COMMISSION