

## Judicial Inquiry Commission

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October 3, 1997

The Judicial Inquiry Commission has considered your request for an opinion concerning whether, under the Alabama Canons of Judicial Ethics, a judge as part of an indigent defense program may recommend attorneys to the local Indigent Defense Commission. The attorneys are being considered for appointment to the position of "contract counsel" to represent indigent defendants before a certain judge in the circuit. Prior to appointment the Indigent Defense Commission requires the recommendation of two local circuit judges who are familiar with the attorneys' skills and character. One of the recommendations must be from the judge in whose court the appointed counsel will appear.

It is the opinion of the Commission that the recommendations in question are consistent with the Canons of Judicial Ethics.

It has been suggested that Canon 2C might provide an impediment to these recommendations. That canon provides that a judge "should not lend the prestige of his office to advance the private interests of others; nor should he convey or permit others to convey the impression that they are in a special position to influence him." However, the Commission finds that the recommendations in question are completely in line with the judge's duty to provide quality representation for indigent defendants rather than advancing the private interests of the attorneys being recommended. Judges handling a large criminal docket are called upon daily to appoint counsel for indigent defendants. Here, in the instance of contract counsel, the appointment includes additional steps, the recommendation of another circuit judge and the approval of the Indigent Defense Commission. These steps are taken to attempt to provide the highest quality of representation available for indigent defendants.

Of course, in making the recommendation for these appointments the judge must abide by the provisions of Canon 3B(4), "exercising his power of appointment (or recommendation) only on the basis of merit, avoiding nepotism or favoritism."

Yours very truly,

JUDICIAL INQUIRY COMMISSION