

## JUDICIAL INQUIRY COMMISSION

DATE ISSUED: JANUARY 18, 2002

ADVISORY OPINION 02-789

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SERVICE ON COMMITTEE PLANNING A  
FATALITY REVIEW TEAM

extra-judicial appointments and states in  
pertinent part as follows:

### ISSUES

May a judge serve on a steering committee being established by a Domestic Violence Task Force to plan and organize a fatality review team? **Answer:** Yes, subject to the limitations in Canon 5B.

It is desirable that a judge should not accept appointment to a governmental committee, commission, or other position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, or the administration of justice or unless required by law.

### FACTS

A judge on the Court of Criminal Appeals has been asked to serve on a steering committee which will plan and organize a fatality review team. The general purpose of the review team will be to do a retrospective of deaths resulting from domestic violence. The committee is being established by a local Domestic Violence Task Force. The Task Force is not a governmental agency, nor is it involved in prosecution of offenders.

The responsibilities of the particular panel at issue were “to examine policies and procedures of state and local agencies to determine efficiency in the discharge of child protection responsibilities.” Thus, the issues of fact and policy to be addressed did not primarily concern the improvement of the law, the legal system, or the administration of justice.

The steering committee will perform a temporary function. It will decide such matters as the criteria to be used in selecting cases for review and the composition of the review team. It will not actually deal with cases and will dissolve after the task of setting up the form and function of the review team is complete.

The inquiring judge is not being asked to serve on a fatality review team, either governmental or nongovernmental. Therefore, the situation in Advisory Opinion 97-635 is distinguishable from the instant one.

### DISCUSSION

In Advisory Opinion 97-635, the Commission concluded that service on a Regional Review Panel under the Department of Human Resources to evaluate child fatality cases was contrary to Canon 5G. Canon 5G addresses

Since the steering committee on which the judge has been asked to serve is not a governmental committee, the present inquiry is governed by Canon 5B rather than Canon 5G. Canon 5B provides that a judge may participate in civic and charitable activities that “do not reflect adversely upon his impartiality or interfere with the performance of his judicial duties.” Canon 5B further provides that a judge may serve as a nonlegal advisor of a civic or charitable organization subject to the following limitations:

(1) A judge should not serve if it is likely that the organization or institution will be engaged in proceedings that would ordinarily come before him or will be regularly engaged in adversary proceedings in any court.

(2) It is desirable that a judge not solicit funds for any educational, religious, charitable, fraternal, or civic organization or institution, or use or permit the use of the prestige of his office for that purpose, but he may be listed as an officer, director, or trustee of such an organization or institution. (3) A judge should not give investment advice to such an organization or institution, but he may serve on its board of directors or trustees even though it has the responsibility for approving investment decisions.

It does not appear to the Commission that service on the proposed steering committee would reflect adversely upon the judge's impartiality. However, should the committee become engaged in activities that create an appearance that it is part of a prosecution team, an adverse reflection on the judge's impartiality would be created which would require the judge to resign from the committee.

The Commission assumes from the facts presented that neither the Task Force nor the steering committee is regularly engaged in

court proceedings or engaged in proceedings that would ordinarily come before the inquiring judge, so that the restrictions in Canon 5B(1) will not apply. Before agreeing to serve, the judge should determine that service will not be so time consuming as to interfere with the performance of judicial duties. The judge also should note the restrictions in Canons 5B(2) and 5B(3).

Materials provided by the inquiring judge indicate that fatality review teams may have a variety of different specific purposes or focuses, as well as a number of different structures. A possible purpose would be to improve the applicable legal system; other potential purposes include matters such as homicide/suicide prevention, community awareness, identification of gaps in community systems, and education in professional duties. Potential structure formations include by legislative mandate, by a domestic service provider or task force, or by commission of a governor. The appropriateness of a judge serving on a fatality review team is a matter not presented here, which would depend on the specific purpose and structure of the team.

It is the opinion of the Commission that service on the proposed steering committee to create a fatality review team would not be contrary to the Alabama Canons of Judicial Ethics so long as the limitations in Canon 5B are observed.

**REFERENCES**

Alabama Advisory Opinions 97-635.

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

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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, 800 South McDonough Street, Suite 201, Montgomery, Alabama 36104; tel.: (334) 242-4089; fax: (334) 240-3327; E-mail: [jic@alalinc.net](mailto:jic@alalinc.net).