

**ADVISORY COMMITTEE**  
**ON STANDARDS OF JUDICIAL CONDUCT**

OPINION NO. 5 - 2021

RE: Propriety of a part-time magistrate court judge also representing defendants in a town municipal court.

**FACTS**

A part-time magistrate has inquired into the permissibility of accepting employment as an attorney in a town municipal court. The town, which is located in a different county than the one in which the judge serves as magistrate, would like to have an on-call attorney to represent defendants who are unable to hire an attorney for traffic court violations. The judge inquires as to whether part-time employment as such is permissible.

**CONCLUSION**

A part-time magistrate judge may accept part-time employment as the town's on-call attorney to represent defendants who are unable to hire an attorney for traffic court violations, provided the town is not within the same county as the court on which the judge serves.

**OPINION**

Part-time judges are permitted to practice law, subject to several limitations under the Code of Judicial Conduct. Part-time judges are required to comply with Canon 2, which requires that a judge act in a manner that promotes the public confidence in the impartiality of the judiciary, and that the judge must avoid the appearance of impropriety.

We have previously found that a part-time magistrate should not represent defendants in municipal courts in the county in which the judge serves. Opinion 8-2017. The logic for this finding was that the magistrate's court could or would have concurrent jurisdiction over the same criminal violations as the municipal court, and thus create an appearance of partiality or

impropriety. Id.

Here, however, the municipal court is not within the same county as the magistrate court on which the judge serves. Thus, there is no overlapping jurisdiction. Therefore, we find that the judge may accept part-time employment as the town's on-call attorney to represent defendants who unable to hire an attorney for traffic court violations.

s/ Letitia H. Verdin  
LETITIA H. VERDIN, CHAIR

s/ Usha Jeffries Bridges  
USHA JEFFRIES BRIDGES

s/ Keith M. Babcock  
KEITH M. BABCOCK

March 22, 2021