

ADVISORY COMMITTEE  
ON STANDARDS OF JUDICIAL CONDUCT

OPINION NO. 08-2002

RE: Propriety of the Chief of Police of a municipality supervising that municipality's court.

FACTS

An inquiry is made into whether or not there would be a conflict with the Chief of Police of a municipality supervising that municipality's court. The only employees of the court are one full-time clerk and four part-time municipal judges. Currently, the Chief of Police's authority is limited to personnel matters concerning the clerk. The clerk has no judicial duties but oversees all non-judicial aspects of running the court. The Chief of Police has no supervisory authority over the part-time judges. There has been some suggestion from the community that the Chief's position could result in an improper influence over the judges and/or create the general appearance of impropriety.

CONCLUSION

The Chief of Police should not supervise the municipality's court.

OPINION

A judge shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary. Rule 501, Canon 2(A). A judge shall not allow . . . social, political, or other relationships to influence the judge's judicial conduct or judgment. Rule 501, Canon 2(B). The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired. Rule 501, Canon 2(A), cmts.

Based on the facts provided, reasonable minds could perceive that the four part-time judges could be influenced by the Chief of Police. The Chief of Police is being asked to perform two roles: (1) protector of the people and (2) supervisor of the court. As the protector of the people, the Chief's duty is to protect the surrounding community from harm, ensure its safety, and prevent crime. Part of this duty entails apprehending those persons who violate the law. As supervisor of the court, the Chief will supervise the judges who determine if the law is violated, as well as the staff assigned to assist the judge in the process. Even the Chief's best efforts and benign intent to ensure that he completely separates his dual roles will not withstand the potential for the appearance of impropriety placed on the four part-time judges that he will supervise. The existing concerns from the community concerning the Chief's role as supervisor of the court exemplifies this fact.

For these reasons, the Chief of Police should not supervise the municipality's court.

---

A. CAMDEN LEWIS, CHAIRMAN

---

JAMES A. SPRUILL, III

---

HOWARD P. KING

April \_\_\_\_\_, 2002.