

**ADVISORY COMMITTEE ON STANDARDS OF JUDICIAL CONDUCT
OPINION NO. 9 - 2023**

RE: Propriety of a part-time Municipal Court judge serving as Chairperson of the County Sheriff's Foundation.

FACTS

A recently appointed part-time Chief Municipal Judge is also the founder of the County Sheriff's Foundation and currently serves as the Chairperson. The Foundation was created approximately five years ago. The Foundation was formed to support the mission and goals of the Sheriff's Office and its employees. The judge does not solicit funds or otherwise participate in fundraising, though the judge is likely to attend fundraising events, such as the annual golf tournament, as a donor or participant. The Foundation does not have members so the judge would not be soliciting individuals for membership. As Chairperson, the judge is required to run monthly Board meetings, review the financials of the Foundation, and execute checks for expenses approved by the Board. The judge will also interact with the County Sheriff who serves *ex officio* on the board. The judge receives no compensation from the Foundation. The judge inquires as to whether continued service as Chairperson of the Sheriff's Foundation is allowed under the Code of Judicial Conduct.

CONCLUSION

A part-time municipal judge may also serve as the Chairperson for the County Sheriff's Foundation.

OPINION

According to the Canons, a judge's extra-judicial activities should not: (1) cast reasonable doubt on the judge's capacity to act impartially as a judge; (2) demean the judicial office; or (3) interfere with the proper performance of judicial duties. Canon 4A. However, as noted in the

Commentary, “Complete separation of a judge from extra-judicial activities is neither possible nor wise; a judge should not become isolated from the community in which the judge lives.” Moreover, Canon 4C(3) allows a judge to serve as an officer, director, trustee or non-legal advisor of an organization or governmental agency devoted to the improvement of the law, the legal system or the administration of justice, provided that the organization will not be engaged in proceedings that would ordinarily come before the judge, and will not be engaged frequently in adversary proceedings in the judge’s court.

In Opinion 2-1999, we addressed a situation in which a full-time Sheriff’s employee had been appointed a part-time Municipal Judge in the same county. As an employee of the Sheriff, the individual had access to all the criminal files and job duties included preparing documents for the case jackets of defendants. We found that the judge could continue employment provided that the relationship did not cause frequent recusals. We noted that if a member of the Sheriff’s Department were to appear before the judge, disqualification, without the possibility of remittal, would be required. If frequent recusals were required, then the judge would need to reevaluate his/her employment.

We also cautioned that the judge must consider the relationship between municipal law enforcement and county law enforcement (i.e., the sheriff). We advised the judge to consider the degree to which his/her employment in the Sheriff’s Department would bring him/her into contact with municipal law enforcement; how the public would perceive the closeness of that relationship; and whether the perception would lead to an appearance of impropriety which is prohibited by Canon 2. If such examinations indicated there was no actual or appearance of impropriety, then the judge could continue in both capacities.

Here, the judge presides over Municipal Court. Neither the Sheriff's Foundation itself nor the Sheriff (or the officers under the Sheriff's command) are likely to appear before the Municipal Court. While recusal would be required if these individuals did appear, it is unlikely to be frequent. In addition, the judge will not be actively fund-raising or soliciting membership for the organization. Thus, service as Chairperson is not prohibited by Canon 4. The judge must make an evaluation of the relationships as discussed in Op. 2-1999. Provided there is no appearance of impropriety, we see no prohibition in the judge continuing to serve as Chairperson for the County Sheriff's Foundation.

s/ Usha Jeffries Bridges
USHA JEFFRIES BRIDGES, CHAIR

s/ William H. Seals, Jr.
WILLIAM H. SEALS, JR.

s/ Keith M. Babcock
KEITH M. BABCOCK

August 21, 2023