

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

**OPINION NO. 10-2018**

RE: Propriety of a part-time municipal judge also serving as president of an association of criminal defense lawyers.

**FACTS**

A part-time municipal judge has been elected the president of an association of criminal defense lawyers for another city (which is located in a different county than where the judge presides). The judge inquires as to the propriety of serving as president for this association. The facts indicate that the Chief of Police and the City Prosecutor in the city where the judge presides have no objection.

**CONCLUSION**

A part-time municipal judge may serve as president of an association of criminal defense lawyers for another city.

**OPINION**

Part-time judges are excluded from complying with certain provisions of the Code of Judicial Conduct. For example, the Code exempts a part-time judge from the ban on practicing law. However, part-time judges must comply with Canon 4C(3) regarding governmental, civic, or charitable activities. Canon 4C(3) states that:

A judge may 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 or of an educational, religious, charitable, fraternal or civic organization not conducted for profit, subject to the following limitations and the other requirements of this Code.

One of the limitations preventing a judge from serving is found in Canon 4C(3)(a), which states that a judge should not serve as an officer, director or advisor of an organization that will frequently

be engaged in proceedings before the judge. In addition, Canon 4C(3)(b) limits the judge's fund-raising participation and membership solicitation.

Here, there is no reason to expect that the organization will regularly appear in proceedings before the magistrate.<sup>1</sup> While some of its members may appear before the magistrate, the organization itself will not (and the fact that the organization is in a different city than the one where the judge presides lessens the frequency that members will appear). Moreover, the Chief of Police and the City Prosecutor, who would presumably have the most concern that the judge might be biased towards defense attorneys, have no objection to the judge's service. Furthermore, since the Code allows the part-time judge to practice law in the judge's chosen area of criminal defense, the judge may serve as an officer (here, president) of a civic association of criminal defense lawyers.

The Committee is aware of opinions from other jurisdictions which prohibit or limit judges from being members of similar organizations. However, those opinions can be distinguished from the matter before us. For example, in an opinion (Op. 95-21) issued by the Florida Committee on Standards of Conduct Governing Judges, the Committee there found that a full-time judge could not be a member of the Academy of Florida Trial Lawyers because members had to certify that less than 40% of their practice involved defense matters. The Committee found that membership would cast doubt on the judge's ability to act impartially, and could lead to attorneys referring to the judge as "a Plaintiff's judge." Similarly, Ariz. Judicial Ethics Advisory Committee 95-02 found that a judge could not maintain membership in the National Association for Criminal Defense

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<sup>1</sup>In addition, nothing in the facts presented suggests that the judge will have to fund-raise or solicit members in his or her service as president.

Attorneys. In both the Florida and Arizona opinions, it appears that the judge is a full-time judge.

Here, the inquiring judge is part-time judge and is permitted to practice law. Thus, most attorneys will already know that the part-time judge also practices in the area of criminal defense, and service as the president of a criminal defense organization does not affect the judge's ability to act impartially any more than the judge's continued practice of law. Thus, the reasoning and conclusions in the above-cited opinions (as well as additional opinions from other states) would not apply to this matter.

S/ LETITIA H. VERDIN  
LETITIA H. VERDIN, CHAIR

S/ USHA JEFFERIES BRIDGES  
USHA JEFFERIES BRIDGES

S/ KEITH M. BABCOCK  
KEITH M. BABCOCK

June 26, 2018

