

JEAC 1998-4
August 31, 1998

You have requested an opinion from the Judicial Ethics Advisory Committee on the following issue:

Your son is an officer with the Rehoboth Beach Police Department. You are ordinarily assigned duties at Justice of the Peace Court No.4 in Seaford, Delaware. You would like to accompany your son while he is on duty in a "ride along" in a police car. You suggest that since you are assigned to Court No.4 in Seaford you would have no contact with anyone your son might arrest.

The Advisory Committee is of the opinion that you should not participate in a "ride along" with a police officer.

Canon I.A. of the Delaware Judges' Code of Judicial Conduct (the Code) proclaims that "An independent and honorable judiciary is indispensable to justice ***." and that a judge "**** should personally observe those standards, so that the integrity and independence of the judiciary may be preserved. ***."

Canon 2. States "A judge should avoid *** the appearance of impropriety in all activities."

Canon 2.A. of the Code provides that "A judge *** should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."

The conclusion in this opinion, as in many requests for advisory opinions, is shaped largely by reference to the words "appearance" and "perception". (See generally Shaman et al, Judicial Conduct and Ethics (2d ed. 1955) Ch. 10 for analysis of judiciary personal conduct, speech and association.).

The conclusion in this opinion is premised on your membership in the State Judiciary. The fact that you are generally assigned to Court No.4 in Seaford and the proposed activity would take place in or around Rehoboth Beach does not affect the conclusion reached. (If this was an issue, it was answered fully in an opinion of the Committee issued September 29, 1994, addressed to _____.

Activity which may in itself be innocuous can, nevertheless, create an impression in the public eye which compromises the nature of the activity. An independent and impartial judiciary is best kept separate from the enforcement arms of government. A "ride along" may be perfectly innocuous, but if an incident occurs in which the officer in the car becomes involved, the judge who may be riding along can become enmeshed in the situation and a later resolution of the matter can be tainted in the public eye by the judge's involvement. It does not require too much imagination to posit situations which could occur on a "ride along" - from the basic minor traffic violation, to a high speed chase, to a sudden sensational drug arrest, to an explosive and emotional domestic violence confrontation. The simple statement of the problem should suffice.

An independent and impartial judiciary must be vigilant constantly not to convey to the public that the line of demarcation between the judiciary and the law enforcement agencies is eroded. A judge sitting in a police car on a "ride along" would appear to blur the separation the public expects between judges and the arresting agencies, (See Shaman at §10.03), and the public could perceive an erosion of the impartiality expected of all judges.

This Committee suggests that you not participate in the "ride along" program.

(The Honorable N. Maxson Terry, Jr., Judge of the Superior Court of Delaware, and a member of this Committee, joined in approval of this opinion on August 14, 1998, just prior to his untimely death.)

For The Committee,
Alfred Fraczkowski