

# STATE-BY-STATE COMPILATION ADDENDUM

## *A Listing of Selected Judicial Ethics Advisory Opinions and Cases that Address Community Participation by Judges to End Domestic Violence*

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## **NOTE REGARDING THIS ADDENDUM**

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Judicial ethics advisory opinions are fact-specific and address issues related to the future conduct of judges. The advisory opinions of one state are not binding on another state, and due to the nature of the advisory opinion, may not be binding upon the decision of a state judicial commission.

Each state has adopted its own code of judicial conduct, but most states have adopted versions similar to the American Bar Association's Model Code of Judicial Conduct (adopted by the ABA House of Delegates February 12, 2007). Opinions can become outdated as codes are amended or new opinions are issued.

An effort was made to include advisory opinions from every state; however, those states that are missing from this addendum either did not have any relevant opinions or did not have opinions readily available to the public. The opinions included in this addendum are synopses of the official opinions and should not be relied upon or used in lieu of obtaining legal advice.

# ALABAMA

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## Judicial Inquiry Commission Opinion 02-789 (2002)

*Issue:* May a judge serve on a steering committee that is being established by a domestic violence task force to plan and organize a fatality review team?

*Answer:* Yes. Because the judge is planning and organizing rather than serving on the team (which would not be permitted), service on the proposed steering committee would not reflect adversely upon the judge's impartiality. However, should the committee become engaged in activities that create an appearance that it is designed to assist in prosecution, an adverse reflection on the judge's impartiality would be created which would require the judge to resign from the committee.

## Judicial Inquiry Commission Opinion 04-831 (2004)

*Issue:* May a judge serve on the board of directors for a provider of court-ordered services?

*Answer:* Yes. In this scenario, the only local provider of court-ordered services, including domestic violence services, was the family support center. Therefore, no preference for this service over others would be implied.

## Judicial Inquiry Commission Opinion 07-885 (2007)

*Issue:* May a judge (a) sign a letter encouraging male community leaders to support an organization called "Men Against Domestic Violence" or (b) endorse a domestic violence manual for a business' human resources department?

*Answer:* No. To do so may give an appearance that the judge has adopted or supports an organization's agenda that is not gender neutral, or an appearance of alignment with a domestic violence victim's advocacy organization.

# ALASKA

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## Commission on Judicial Conduct Advisory Opinion 2000-01 (2000)

*Issue:* May a juvenile court judge (master) serve on a local juvenile corrections facility's citizens advisory committee?

*Answer:* Yes. The citizens' advisory committee for the juvenile corrections facility's purpose is to improve the administration of justice; it is composed of a cross-section of interested parties who will not be advocates for any particular single interest; and the group will be limited to administrative concerns.

*Issue:* May a superior court judge serve on a community committee to plan for a child advocacy center (facility for child victims of physical or sexual abuse)?

*Answer:* No. The child advocacy center planning committee's membership is prosecutorial in nature and it appears to be fundamentally an advocacy group regardless of the purely administrative function of this particular committee.

## Commission on Judicial Conduct Advisory Opinion 2004-01 (2004)

*Issue:* What types of activities may judges perform to help further pro bono participation by attorneys?

*Answer:* A judge may make monetary contributions to further pro bono activities reasonably equivalent to the value of the hours of service that would have otherwise been provided. Judges may not solicit attorneys to participate in particular pro bono programs or to accept particular cases. However, general appeals to participate in pro bono efforts are permissible. Judges may participate in CLEs or other presentations for attorneys who take pro bono cases. Judges may also acknowledge the pro bono activity of particular attorneys if done in public, such as in a newspaper or plaque in court. Direct letters of thanks are not permitted.

## ARKANSAS

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### Judicial Ethics Advisory Committee Opinion 2003-02 (2003)

*Issue:* May a judge serve on the Arkansas Commission on Child Abuse, Rape, and Domestic Violence or act as its chair? [Part of the Commission's charge is to review instances of child death.]

*Answer:* Yes. The Commission is concerned with the improvement of the law, the legal system, or the administration of justice. However, the Committee outlined some functions the judge could not perform, such as review instances of child deaths. ["A strong general consensus of advisory opinions in this area is to the effect that a judge may not participate on a commission that conducts fatality reviews. See West Virginia Advisory opinion (February 16, 2001) {too likely similar cases would come before the judge}; Alabama Advisory Opinion 97-635 {panel concerned fact and policy and not legal system or administration of justice contrary to canon}, and Georgia Advisory Opinion 174 {participation in child fatality reviews could cast doubt on impartiality}"].]

## CALIFORNIA

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### Judges Association Committee on Judicial Ethics Opinion 61 (2008)

*Issue:* May a judge serve on an advisory committee to a government or non-profit entity?

*Answer:* Yes. A judge must make certain inquiries first, however, to determine whether service would be appropriate. For example, a judge may not serve on an advisory committee to the Children's Assessment Center, a division of Family Court Services, because the organization screens children who are alleged child abuse victims and sends them to the Center to be evaluated by doctors and social workers who make findings regarding the alleged abuse. Those findings are presented in court. On the other hand, a judge may serve as a member of an advisory committee of the Youth Law Academy, an organization dedicated to encouraging high school students to enter the profession of law by providing scholarships and training in legal issues.

## CONNECTICUT

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### Committee on Judicial Ethics Opinion 2009-10 (2009)

*Issue:* May a judge serve on the board of directors for Greater Hartford Legal Aid?

*Answer:* No. The likelihood that the organization would be involved in litigation in front of the judge is great, and the organization makes policy decisions that may have political significance or imply commitment to causes that may come before the court, and the judge's involvement with the organization would reflect adversely on the judge's impartiality.

## DELAWARE

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### Judicial Ethics Advisory Committee Opinion 2007-4 (2007)

*Issue:* May a judge serve on the National Council of Juvenile and Family Court Judges' (NCJFCJ) membership committee?

*Answer:* Yes. NCJFCJ is a law related activity; it would not regularly engage in adversarial proceedings in any court.

## FLORIDA

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### Judicial Ethics Advisory Committee Opinion 2001-14 (2001)

*Issue:* May a judge serve on a county domestic violence council if the council appears to have become an advocacy group?

*Answer:* No. A judge may not serve on any advocacy group. In this particular case, the group strayed from its original mission of working toward the prevention of family violence, promoting victim safety, and reducing the impact of family violence on individuals, communities and society, through cultural competence, education, support, advocacy, and referral. The group began conducting court watch activities and using the information gathered to affect the judiciary.

*Issue:* Is it a conflict of interest for judges to be members of a domestic violence council if there are members on the council who operate for-profit batterer intervention programs (BIPs)?

*Answer:* No. There is no conflict of interest per se with judges serving on a domestic violence council with other members who operate for-profit BIPs. In Florida, BIPs are ordered as conditions of probation or as part of a protection order. Because the judge receives no financial gain or other benefit by requiring a person to attend a BIP, and the person has the option to choose which BIP to attend, there is no appearance of the judge lending the prestige of the judicial office to further a private interest.

*Issue:* May the domestic violence council meet in the courthouse?

*Answer:* The Committee declines to answer this inquiry as it is beyond the scope of the Committee. This scope falls outside of the canon of ethics.

*Issue:* Is it appropriate for members of the judiciary to attend domestic violence council meetings and answer questions about court procedures?

*Answer:* Yes.

#### **Judicial Ethics Advisory Committee Opinion 2004-05 (2005)**

*Issue:* May a judge accept an appointment by the local legislative body to its advisory commission on the status of woman?

*Answer:* Yes. The Commission must be concerned, though, with the improvement of the law, the legal system, or the administration of justice, and the group must not be an advocacy group.

#### **Judicial Ethics Advisory Committee Opinion 2009-11 (2009)**

*Issue:* May a judge serve on the committee of a domestic violence organization that encourages lawyers to provide pro bono services?

*Answer:* No. To do so would increase the private interests (helping battered women) of a private organization.

## ILLINOIS

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### Judicial Ethics Committee Opinion 05-05 (2005)

*Issue:* May a judge serve on the board of directors for a non-profit organized for the purpose of promoting responsible fatherhood?

*Answer:* Yes. The organization does not engage in political activity nor will it likely be in litigation in front of the judge. In serving, the judge must ensure the judge will not engage in any prohibited activity.

## KANSAS

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### Judicial Ethics Advisory Panel Opinion JE-168 (2009)

*Issue:* May a judge attend a presentation by the DUI Victims Center for Kansas?

*Answer:* No. Attendance by a judge at a presentation by the DUI Victims Center of Kansas whose purpose is to offer services to DUI victims, reduce the traumatic effects DUI incidents have on victims and their families, and to increase the awareness of the danger and human consequences of a DUI, can convey an impression they are an advocacy group and are in a position to influence the judge.

## MARYLAND

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### Maryland Judicial Ethics Committee 2009-02 (2009)

*Issue:* May a judge accept an appointment to the Maryland Children's Justice Act Committee?

*Answer:* Yes. The judge's responsibilities on the committee must be related to the administration of justice and the improvement of law and must not be executive or legislative in nature. Of note, this committee conducts fatality reviews. Judges should not examine and critique the policies and practices of social and law enforcement agencies. Furthermore, conclusions resulting from fatality reviews may find their way into court in civil suits claiming the negligence of an agency in a particular case or in many cases

involving that agency. As such, a judge should not participate in those duties.

### **Maryland Judicial Ethics Committee Opinion 2010-14 (2010)**

*Issue:* May a judge propose to law firms that they provide or underwrite the compensation of an attorney to provide full-time pro bono legal service in a program to represent victims of domestic violence?

*Answer:* Yes. Judges can facilitate and encourage the provision of pro bono legal services, as long as the judge is not coercive.

## **MASSACHUSETTS**

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### **Supreme Judicial Committee on Judicial Ethics 2011-4 (2011)**

*Issue:* May a judge participate in a research study of immigrant women subject to domestic abuse?

*Answer:* No. To participate would cause the judge to be perceived as impartial toward victims of domestic violence.

## **MISSOURI**

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*No judicial ethics opinions on point between 2000 and 2012, but MRS 455.300 (2000, 2011) outlines who shall participate in the state's domestic violence commission. One juvenile court judge and one family court judge are listed to study solutions for domestic violence in Missouri.*

## **NEBRASKA**

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### **Ethics Advisory Opinion 04-1 (2004)**

*Issue:* May a judge attend a training conference on domestic violence issues at the expense of a local domestic violence project funded by the Department of Justice?

*Answer:* Yes and no. The Code does not prohibit a member of the judiciary from attending an educational conference on domestic violence

where the curriculum of the conference is not primarily prosecutorial in nature. However, the judge may not accept funding from either the local domestic violence project or through a grant from the Department of Justice, as each is a partisan group whose interests will likely come before the judge in future cases.

## NEVADA

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### **Standing Committee on Judicial Ethics and Election Practices Opinion JE00-005 (2000)**

*Issue:* May a domestic violence commissioner serve on the local domestic violence fatality review board?

*Answer:* Yes. [But see JE11-007 below.]

### **Standing Committee on Judicial Ethics and Election Practices Opinion JE08-015 (2008)**

*Issue:* May a recently elected justice of the peace continue to serve on the Nevada Council for the Prevention of Domestic Violence?

*Answer:* Yes, with full disclosure. The Council, as an advisory body, is focused on the general improvement of the law and legal services, not on advocacy for fact-specific issues or cases. The justice of the peace must disclose his or her membership on the Council in instances in court where the judge believes that participation may “cast reasonable doubt” on her impartiality when dealing with domestic violence.

### **Standing Committee on Judicial Ethics and Election Practices JE09-002 (2009)**

*Issue:* May a district judge accept an appointment to serve on the board of directors of a non-profit organization that provides support services to victims of domestic violence, including a court advocacy program assisting victims with applications for temporary protection orders and stalking orders before the justice courts?

*Answer:* Yes. In order for a judge to be able to do this, the judge must determine that the organization will not be engaged in matters coming before the judge, or in matters that will be, basically, in any court in the district. The judge must also determine that serving will not cast reasonable doubt on the judge’s capacity to act

impartially or interfere with the judge's judicial duties. Otherwise, the answer is no.

### **Standing Committee on Judicial Ethics and Election Practices JE11-007 (2011)**

*Issue:* May a judge serve as an appointed member on a multidisciplinary team organized pursuant to Senate Bill 66 (2011) and NRS 33.018 to review the death of the victim of a crime constituting domestic violence?

*Answer:* No. Serving on the team would likely create the appearance of bias in favor of victims which would in turn create the appearance of impartiality. The Committee rejected earlier conclusions that stated a judge could participate.

## **NEW JERSEY**

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The following annotated opinions are from the 2007 publication *Annotated Guidelines for Extrajudicial Activities*, published periodically by the Supreme Court of New Jersey, Advisory Committee on Extrajudicial Activities.

### **Opinion No. 25-01 (2001)**

*Issue:* May a judge participate in a domestic violence symposium entitled *Family Violence Through the Life Cycle* sponsored by the Jewish Renaissance, a non-profit that assists Jewish immigrants?

*Answer:* Yes. The judge must restrict the presentation to the role of the court in processing cases and the volume of domestic violence cases in court. The judge must not discuss specific cases.

### **Opinion No. 15-03 (2003)**

*Issue:* May a judge be the guest speaker at a coalition of domestic violence crisis team's quarterly meeting?

*Answer:* No. Speaking at the meeting could create a perception of partiality toward domestic violence complainants, and the attendees will only be members of the domestic violence crisis teams from the judge's county.

### **Opinion No. 45-03 (2003)**

*Issue:* May a judge provide a letter of recommendation in support of a YMCA grant application for domestic violence funding to support pro bono attorneys to take domestic violence cases?

*Answer:* No. There could be an appearance that the judge supports only one side of the litigation because the attorneys would only represent domestic violence victims.

## **NEW MEXICO**

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### **Supreme Court Advisory Committee Opinion 06-2 (2002)**

*Issue:* May a judge participate in a domestic violence fatality review team?

*Answer:* Yes. The duties and membership argue in favor of participation, but the Committee cautioned the judge that if the team appears to no longer maintain its neutral and unbiased scientific approach to the issues it considers, participating may cast doubt on the judge's capacity to act impartially as a judge.

### **Supreme Court Advisory Committee Opinion 08-6 (2006)**

*Issue:* May a judge speak to a group of criminal defense attorneys about the domestic violence court over which the judge presides?

*Answer:* No. Prosecutors were not able to attend.

## **NEW YORK**

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### **Advisory Committee on Judicial Ethics Opinion 06-5 (2006)**

*Issue:* May a judge attend events sponsored by a domestic violence advocacy organization that provides services only to domestic violence victims?

*Answer:* No.

### **Advisory Committee on Judicial Ethics Opinion 06-108 (2006)**

*Issue:* May a judge serve as a member of a domestic violence task force that seeks to promote offender accountability?

*Answer:* No.

### **Advisory Committee on Judicial Ethics Opinion 08-116 (2008)**

*Issue:* May a judge participate in a panel discussion of offender accountability and court compliance calendars at a domestic violence training program sponsored by a domestic violence advocacy group?

*Answer:* No. A judge's participation in these activities could reasonably cast doubt on his or her ability to remain impartial in domestic violence cases; of particular concern are circumstances where the judge would actively align with the promotion of "offender accountability."

### **Advisory Committee on Judicial Ethics Opinion 09-2 (2009)**

*Issue:* May a judge make available in the courtroom a list of domestic violence organizations that provide legal services to victims?

*Answer:* Yes. "A judge may make available a list of domestic violence organizations that provide legal services to victims as long as the judge explains that the availability of the materials does not constitute the court's official recommendation and as long as the judge does not recommend any particular organization."

### **Advisory Committee on Judicial Ethics Opinion 09-181 (2009)**

*Issue:* May a judge (a) speak about domestic violence from a judge's perspective during a law firm's forum for women; (b) speak about a workshop the judge recently conducted to the legal advisory committee of a non-profit organization that represents domestic violence victims; or (c) lecture about divorce law during CLE programs offered by non-profit organizations that represent domestic violence victims to attorneys who agree to represent victims pro bono?

*Answer:* No. Judges may not speak to not-for-profit organizations that represent victims of domestic violence as doing so could cast reasonable doubt on the judge's capacity to act impartially as a judge. The New York Ethics Committee believes that domestic violence organizations promote a point of view or support one side in a particular class of cases and, therefore, a judge's participation in these activities could reasonably cast doubt on that judge's ability to remain impartial in those cases.

### **Advisory Committee on Judicial Ethics Opinion 10-59 (2010)**

*Issue:* May a judge (a) accept an award from a batterer intervention program to which the judge refers defendants; or (b) appear at a candlelight vigil for domestic violence victims?

*Answer:* No.

## **OHIO**

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### **Board of Commissioners on Grievances and Discipline Opinion 2002-09 (2002)**

*Issue:* May a judge serve as an appointed member of a County Family and Children First Council, a government entity?

*Answer:* No. A County Family and Children First Council is a government entity that is directly concerned with issues of facts or policy on matters other than the improvement of the law, the legal system, or the administration of justice.

## **OKLAHOMA (1998)**

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### **Judicial Ethics Advisory Panel Opinion 2000-09 (2000)**

*Issue:* May a judge accept an appointment as chair or member of a board of a non-profit organization whose mission is to investigate incidents of child abuse and aid in prosecution?

*Answer:* No. This organization will frequently be engaged in proceedings that would ordinarily come before the judge or will be engaged

frequently in adversary proceedings in the court of which the judge is a member.

## **SOUTH CAROLINA**

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### **Standards of Judicial Conduct Advisory Committee Opinion 16-2000 (2000)**

*Issue:* May a judge serve on a government-appointed task force that addresses domestic violence?

*Answer:* No. The committee's duties (promotion of legislation, among them) would lead to the appearance of impropriety.

### **Standards of Judicial Conduct Advisory Committee Opinion 1-05 (2005)**

*Issue:* May a judge access a national crime information center program to run criminal histories on parties who may appear before him or her?

*Answer:* No.

### **Standards of Judicial Conduct Advisory Committee Opinion 16-2009 (2009)**

*Issue:* May a judge appear on an "enforcement panel" for a domestic violence seminar?

*Answer:* No. Speaking at a seminar on domestic violence under the facts presented could give rise to partiality towards the victims of domestic violence and create the appearance of impropriety. Therefore, the judge should not participate as a speaker at the seminar.

## **TEXAS**

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### **Committee on Judicial Ethics Opinion 258 (2000)**

*Issue:* May a group of judges send a letter to all members of the local bar asking them to volunteer with a pro bono clinic of legal services?

*Answer:* Yes. The proposed letter identifies the project as a joint undertaking of the legal services organization and the local and area bar

associations, explaining that the project's aim is to ensure the administration of justice to those served by the program.

## UTAH

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### **Ethics Advisory Committee Informal Opinion 05-5 (2005)**

*Issue:* May a judge make a referral to the Utah Crime Victim's Legal Clinic?

*Answer:* Yes. The judge may make such a referral as long as the referral is in no way based on an assessment of the victim's case or the quality of representation. Any referral should be on the same basis as referring an individual to an indigent defense or similar organization. The referral must be based solely on the individual's status as a victim, as defined in the Utah Code, and not on other criteria.

### **Ethics Advisory Committee Informal Opinion 07-3 (2007)**

*Issue:* May a judge, in considering a juvenile court petition, review and consider information that is already in the possession of the juvenile court independent of any information included in the petition, and contact another juvenile court judge to gather information and seek that judge's perspective on issues involving the petition?

*Answer:* Yes. The facts are already in the possession of the judicial system. The fact that the judge has consulted these sources must be made a part of the record, and the juvenile judge must reveal to the juvenile all of the information that the judge has reviewed. A judge should not conduct an investigation beyond matters that are already in the court's possession. The committee notes that this conclusion applies only cases in which a juvenile is petitioning a court to waive parental consent for an abortion and further notes it is unlikely that this conclusion would apply to other juvenile court cases.

## VERMONT

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### Judicial Ethics Committee Opinion 2728-12 (2004)

*Issue:* May a judge participate in a government-sponsored commission, such as a governor's task force, especially when there is a legislative mandate requiring judicial participation?

*Answer:* Judges may only participate on a government commission if it deals with issues of fact or policy directly related to the improvement of the law, the legal system, or the administration of justice. Judges must ensure that participation does not hinder their duty to be and appear impartial. If a judge believes that the role on a commission hinders ethical duties, the judge is obligated to end the association regardless of any legislative mandate requiring a judicial representative. "Judges should use the Code of Judicial Conduct as a framework for participation, not as an excuse for withdrawing."

## WASHINGTON

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### Ethics Advisory Committee Opinion 00-18 (2000)

*Issue:* May a judge participate in domestic violence summits or other educational programs on this topic?

*Answer:* Yes. The goal of the summit is education, which is a permissible off-bench activity.

### Ethics Advisory Committee Opinion 02-05 (2002)

*The Committee responds generally to a question of whether a judge may participate in victim impact panels and education programs, and sets out criteria for participation by judges and court personnel, including the relevant canons and major issues to consider. The Committee does not arrive at any conclusions about particular participation.*

### Ethics Advisory Committee Opinion 02-11 (2002)

*Issue:* May a judge serve on the board of directors of a non-profit organization that provides batterer's treatment when the defendant may choose to attend or not attend that particular program?

*Answer:* No.

### **Ethics Advisory Committee Opinion 09-01 (2009)**

*Issue:* May a judge participate in a safety and accountability audit conducted by the county domestic violence commission?

*Answer:* No. The audit is slanted to see gaps from the perspective of the victim only; the domestic violence commission has an intimate business relationship with the local domestic violence advocates; participants pledge in advance to adopt recommendations, all of which may affect a judge's appearance of impartiality.

## **WEST VIRGINIA**

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### **Judicial Investigation Commission Advisory Opinion issued February 16, 2001**

*Issue:* May a judge serve on a domestic violence fatality review team?

*Answer:* No. Judges would be discussing cases that had possibly been before them or would be before them in the future.

### **Judicial Investigation Commission Advisory Opinion issued September 17, 2004**

*Issue:* May a judge speak at a one-day seminar for domestic violence advocates and domestic violence attorneys?

*Answer:* No. The seminar is not open to all members of the bar.

### **Judicial Investigation Commission Advisory Opinion issued October 31, 2005**

*Issue:* May a rape and domestic violence information center hold a luncheon at the courthouse for court employees?

*Answer:* No. Holding such a luncheon would create an appearance of impropriety. No canon cited.

## WISCONSIN

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### Judicial Conduct Advisory Committee 01-1 (2002)

*Issue:* May a judge serve on a county community correction advisory board?

*Answer:* Yes. The board improves and develops community resources, builds partnerships, and establishes restorative justice.

## WYOMING

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### Wyoming Supreme Court Judicial Ethics Advisory Committee 2011-01 (2011)

*Issue:* May a judge contribute his or her views on matters intended to improve the judicial system (here, maximum period of incarceration for certain DUI)?

*Answer:* No. Taking a public stance on matters such as sentencing could affect the perception of justice on litigants before the judge. Judges may respond to inquiries with empirical or anecdotal evidence about their experience with matters in question (education rather than advocating for a particular result).