

The Supreme Court of Ohio

BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

41 SOUTH HIGH STREET-SUITE 3370, COLUMBUS, OH 43215-6105
(614) 644-5800 FAX: (614) 644-5804

OFFICE OF SECRETARY

OPINION 89-19

Issued June 16, 1989

[Former CJC Opinion-provides advice under the former Ohio Code of Judicial Conduct which is superseded by the Ohio Code of Judicial Conduct, eff. 3/1/2009.]

[Not Current- subsequent rule amendments to Canons 1 through 6, Ohio Code of Judicial conduct, eff. May 1, 1997]

SYLLABUS: Judges should recuse themselves from any proceeding where their impartiality might reasonably be questioned. A judge should be disqualified from proceedings where the judge's spouse is likely to be a material witness in the proceeding. Such a disqualification may be remitted as provided in Canon 3D.

OPINION: We have before us your request for an advisory opinion on whether there would be any ethical problems as a result of a judge whose spouse is a police officer in the same jurisdiction.

Under Canon 3C(1)(d)(iv) a judge should be disqualified when the judge's spouse is likely to be a material witness in a proceeding before the judge. Therefore, if the judge knows her spouse is going to be called as a material witness, the judge should disqualify herself. This disqualification may be remitted, if otherwise proper, according to the procedure set forth in Canon 3D. However, the judge should make a determined effort to avoid being assigned any cases in which the judge's spouse is a witness.

Judges must avoid the appearance of impropriety and act in a manner which promotes the public confidence in the integrity and impartiality of the judiciary. Code of Judicial Conduct, Canon 2A. A judge must also not allow family, or other relationships to influence the judge's conduct or judgment under Canon 2B.

Other than these general provisions, there is nothing in the Code of Judicial Conduct which precludes a judge from sitting in cases involving a police department which employs the judge's spouse. Instead, a judge should make a case-by-case determination of whether any relationship requires the judge's disqualification based upon the appearance of impropriety or any other Code provision.

This is an informal, non-binding advisory opinion based upon the facts presented and limited to questions arising under the Code of Judicial Conduct.