

The Ethics Advisory Committee (EAC) is appointed by the Chief Justice of the state Supreme Court under General Rule 10, and consists of judges from the Court of Appeals, superior court, courts of limited jurisdiction, an attorney, and the Administrator of the Courts. This is the designated body to advise judicial officers on the application of the Code of Judicial Conduct. The Ethics Advisory Committee issues formal advisory opinions that are circulated publicly by the Administrative Office of the Courts. The opinions are available at a searchable Web site at www.courts.wa.gov, under 'Programs and Organizations.'

The Commission on Judicial Conduct (CJC) is separate from the EAC. The CJC is a constitutionally-created, independent agency of the judicial branch of state government which enforces the Code of Judicial Conduct, pursuant to WA State Const. Art IV, §31. Although EAC opinions are not binding on the CJC, a judge's compliance with an opinion by the EAC shall be considered as evidence of the judge's good faith. GR 10(b). The CJC has a searchable website at www.cjc.state.wa.us.

STATE OF WASHINGTON
ETHICS ADVISORY COMMITTEE
OPINION 11-01

Question

May a judicial officer compile humorous letters and/or pleadings sent to the court into a publication that could be sold with the proceeds going to a charitable cause?

The following representations were made to the Committee: 1) Many courts keep an informal file of humorous letters and/or pleadings. They are almost always reviewed in the normal course of business and placed in individual files. 2) The judge would like to collect as many as the judge can and put them in a book or some kind of compilation and would allow some charitable cause to benefit from its sale. 3) The judge does not care what worthy cause is benefited but some that occur to the judge include legal aid, crisis support network or some other advocates for domestic violence victims. 4) The judge would not use staff to accomplish the project. The judge would only work on it outside of court hours. 5) The judge would ask other courts to either send additional materials to the judge's house or bring it to the judge at the spring judicial conference. 6) The judge would redact any and all identification information. 7) The judge would write some editorial observations.

Answer

The Code of Judicial Conduct does not prohibit a judicial officer from compiling in a publication letters and pleadings that are received by courts. Even though the judge may compile the letters and pleadings the judge should exercise caution in selecting the documents for inclusion and in drafting editorial

observations so that it does not appear that the judicial officer is trivializing or in any way disparaging the persons who authored the letters or pleadings. For example, depending on the circumstances, pointing to some letters or pleadings in a humorous light might be viewed as demeaning individuals based upon their race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, or socioeconomic status, which would be proscribed by CJC 3.1. See Comment [2]. Depending on the facts, humor premised on a person's lack of education, sophistication, familiarity with the legal system, or facility with language could undermine the judge's integrity and impartiality and public confidence in the judiciary. CJC 1.2 and CJC 3.1(C). The identity of the person submitting the letter or pleading and the identity of the case to which the letter or pleading is attached should not be revealed.

The Code permits the proceeds to go to a charitable or civic organization, provided that activities of the organization would not call a judicial officer's impartiality into question. Designating an organization that advocates for domestic violence victims violates CJC 1.2 and CJC 3.1(A) and (C). Proceeds could be designated for other charitable or civic organizations if those organizations would not call the judicial officer's impartiality into question or lead to frequent disqualification provided the judicial officer does not engage in the fundraising activities beyond those permitted by CJC 3.7(A) and (B).