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OPINION: JE07-003

PROPRIETY OF SURVEYING CRIMINAL DEFENDANTS ON THE QUALITY OF SERVICE PROVIDED BY CONTRACT ATTORNEYS.

ISSUE

May a court solicit survey responses from criminal defendants as to the performance of contract attorneys assigned by the court to represent them?

Answer: Yes.

FACTS

This written request from a municipal court judge inquires about the propriety of conducting a survey of defendants on the quality of service provided by private attorneys from the bench criminal contract list. The survey, which would be conducted after the termination of representation, would provide judges with an evaluation, aside from personal observation, to help decide whether to renew the one year contracts with the attorneys.

DISCUSSION

The Committee could find nothing in the Canons of Judicial Conduct prohibiting the use of such a survey. If the survey was conducted after the conclusion of the representation, it would not interfere with the attorney/client relationship.

The judge making the inquiry attached a sample survey which primarily focused on the quality of the process, for example, whether the attorney promptly returned calls and gave the defendant sufficient opportunity to discuss the case. While the Committee questioned any potential jurisdiction over the contents of such a survey, it did express concern that it not delve into privileged issues, such as effective assistance of counsel.

CONCLUSION

There is nothing in the Code of Judicial Conduct which prohibits asking a defendant, at the conclusion of the representation, to assess the quality of service provided by an attorney from the court’s contract list. However, this opinion is not intended to address the question of whether it is prudent policy for judges to be involved in the survey process.

REFERENCES

None available.

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