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STATE OF NEVADA
STANDING COMMITTEE ON
JUDICIAL ETHICS AND ELECTION PRACTICES

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POTENTIAL FOR CONFLICTS
AND NECESSITY FOR
DISCLOSURE FOR A JUDGE
SERVING ON CRIMINAL
MATTERS WHICH MAY
INVOLVE REPORTS,
WITNESSES OR PARTIES
COMING UNDER THE
ULTIMATE CONTROL OF THE
FATHER OF THE JUDGE DUE TO
HIS POSITION AS THE HEAD OF
A STATE AGENCY.

ISSUES

1. Will potential conflicts be created for a judge who hears criminal cases by the fact his/her father heads a state agency which includes divisions of criminal investigation, law enforcement and parole and probation?

2. Does the judge have a duty to disclose the position held by his/her father to criminal defendants and counsel?

Answer to Both Issues: **No.**

FACTS

An inquiry asks if it is appropriate for a judge sitting on criminal cases to disclose to criminal defendants and their counsel that the father of the judge is the director of an agency which has multiple divisions,

including law enforcement and investigation departments and a parole and probation division. The inquiry also asks if the status of the father creates a conflict of interest for the judge in criminal matters.

DISCUSSION

The Nevada Code of Judicial Conduct sets forth the applicable standards from which judges are provided guidance for their conduct on the bench.

Canon 2B provides: "A judge shall not allow family...relationships to influence the judge's judicial conduct or judgment." However, Canon 3E(1)(d)(iv) requires disqualification only if the judge has knowledge that someone within "third degree of relationship" is "likely to be a material witness" in a proceeding before the judge.

While no canon directly addresses either of these issues, the agency in question is extremely large and the head of this agency cannot reasonably have daily contact with or knowledge of each criminal matter which comes under the purview of his staff. Also, the likelihood is extremely limited that the father of the judge would have a direct relationship with the staff people who appear in the judge's court. To require a judge who happens to have an immediate relative

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in such a position to routinely disclose the relationship may prove to be burdensome and lead to delays of criminal proceedings.

CONCLUSION

There is no judicial canon which is directly applicable. However, using Canons 2B and 3E for guidance, this situation does not raise concerns of immediate or repeated conflicts of interest.

Given a conflict is unlikely, there is no need for the judge to disclose the title or nature of his/her father's position to criminal defendants or their counsel.

REFERENCES

Nevada Code of Judicial Conduct, Canons 2B and 3E(1)(d)(iv).

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