



COMMONWEALTH OF KENTUCKY
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JUDICIAL ETHICS OPINION JE-104

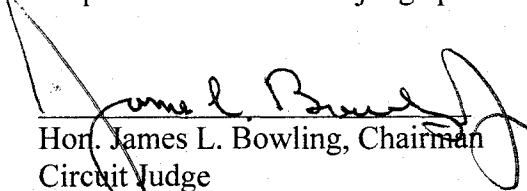
March 15, 2004

Question: In the absence of a formal request from the Governor may a judge communicate with the Governor's office regarding a pardon and in the absence of a formal request from the parole board may the judge communicate with the board regarding a parole proceeding?

Answer: No. The judge may, however, respond to a formal request from either of these decision-making authorities and provide information based on personal knowledge.

Canon 2 requires that a judge be careful not to abuse the prestige of his office. He should not use his judicial office to advance the private interests of others or give the impression that certain persons are in a special position to influence him. He should not testify voluntarily as a character witness.

The Commentary to Canon 2D, however, provides that a judge may respond to formal requests from certain decision-making authorities: "a judge must not initiate the communication of information to a sentencing judge or a probation or corrections officer but may provide to such persons information for the record in response to a formal request." This provision of the Commentary is not mandatory; the word "may" is used, not "shall," and a judge should always keep in mind the appearance of impropriety. For these reasons, the information provided should be accurate and based on the judge's personal knowledge. While the Governor and the parole board are not mentioned specifically, the Committee believes that if the above guidelines are followed, the Code is not violated if a formal request is made and the judge provides the information requested.


Hon. James L. Bowling, Chairman
Circuit Judge
The Ethics Committee of the
Kentucky Judiciary