

## Maryland Judicial Ethics Committee

**Opinion Request Number:** 2008-13

**Date of Issue:** July 31, 2008

■ Published Opinion    □ Unpublished Opinion    □ Unpublished Letter of Advice

Master Not to Input Court-related Information into Case Logs Maintained by State Child Support Administration

**Issue:** Can a Circuit Court Master be required, pursuant to a contract entered into between the Master's office and the State of Maryland Child Support Administration ("CSA"), to input information into certain "logs" maintained by the CSA?

**Answer:** No.

**Discussion:** A Circuit Court Master charged with administering child support matters has challenged the appropriateness of a clause in the Master's office's contract with the CSA. The Master's office is funded, in part, by the jurisdiction in which the office is located, and by the State, along with a grant from the federal government.

The Master's office enters into an annual contract with the CSA. A clause in this contract requires the Master's office to input court-related information about cases, as they are adjudicated, into what are called "C.S.E.A. Case Action Logs." These "logs" often contain substantial amounts of sensitive information about the parties engaged in proceedings before the Master, including arrests, medical issues, other personal matters, as well as the trial tactics of the State's Attorney's office representing the local CSA. In addition, a good deal of case-specific information is kept in the logs, such as case profiles, which would include whether it was a trial or an agreement, and if an agreement, the specifics of the same, etc. The logs also involve a considerable amount of coding, requiring the Master to decide the appropriate code to be entered. A log is not a court document, but actually becomes an internal document for use by the CSA – and may be used by the Administration in future hearings concerning the same defendant.

A Master is subject to the provisions of the Maryland Code of Conduct for Judicial Appointees. (Rule 16-814). Canon 1 provides, in pertinent part: "A judicial appointee shall observe high standards of conduct so that the integrity and independence of the judicial system will be preserved."

Canon 3 deals, at length, with the performance of official duties, including the conduct of proceedings. Canon 3 is designed to ensure that the judicial appointee (*e.g.*, Master) acts completely independently, without prejudice to any party. Indeed, Canon 3A specifically states: "A judicial appointee shall perform the duties of the position diligently, impartially, and without having or manifesting bias or prejudice...."

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In all of these cases coming before the Master, the local CSA is a party to the proceedings. Moreover, common practice in child support matters indicates that often times, these cases and parties return to court numerous times on modifications, contempt, and other matters. Thus, insisting that the Master input the information required under the contract is, in effect, making the Master an agent of the CSA. Inputting this information can be considered an *ex parte* communication prohibited by Canon 3B(6)(b), in that the Master, outside of the presence of the parties, is observing substantive information about the case and the parties themselves.

Accordingly, to allow a Master, or his or her staff, to input this information clearly diminishes the appearance of impartiality required to maintain the integrity of the judicial proceedings over which a Master presides. Indeed, pursuant to Canon 3C(2), a Master's staff is also prohibited from inputting this information.<sup>1</sup>

**Application:** The Judicial Ethics Committee cautions that this opinion is applicable only prospectively and only to the conduct of the requestor described in this opinion, to the extent of the requestor's compliance with this opinion. Omission or misstatement of a material fact in the written request for opinion negates reliance on this opinion.

Additionally, this opinion should not be considered to be binding indefinitely. The passage of time may result in amendment to the applicable law and/or developments in the area of judicial ethics generally or in changes of facts that could affect the conclusion of the Committee. If you engage in a continuing course of conduct, you should keep abreast of developments in the area of judicial ethics and, in the event of a change in that area or a change in facts, submit an updated request to the Committee.

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<sup>1</sup> Canon 3C(2) provides: "A judicial appointee shall require court personnel and others subject to the judicial appointee's direction and control to observe the standards of diligence and fidelity that apply to the judicial appointee and to refrain from manifesting bias or prejudice in the performance of their official duties."