

June 2, 2005

The Honorable Steven G. Howard
City Court Judge for Tuckerman and Swifton
600 Third Street
Post Office Box 69
Newport, Arkansas 72112

Re: Advisory Opinion No. 2005-03

Dear Judge Howard:

In your request for an advisory opinion dated April 20, 2005 you asked, "Does my service as a part-time Newport City Attorney (City Prosecutor) and a part-time Deputy Prosecuting Attorney, conflict with my service as a continuing part-time City Court Judge in Tuckerman and Swifton?" You stated that you were a part-time Deputy Prosecuting Attorney for Jackson County and that Tuckerman and Swifton are located in Jackson County.

We are of the opinion that your service as Newport City Attorney (City Prosecutor), which office by definition would not prosecute cases in the towns of Tuckerman and Swifton, would not violate the Code of Judicial Conduct. Advisory Opinion 2000-11. We urge caution, however. See Advisory Opinions 99-02 and 2004-07

We are, however, of the opinion that your serving as Deputy Prosecuting Attorney for Jackson County and as a City Court Judge in towns located in Jackson County would be in violation of the Code. A person cannot be both a judge presiding over criminal cases and a deputy prosecutor in the same county. Another concern is that when you preside in Tuckerman and Swifton you could be hearing cases brought by other deputy prosecutors who answer to the same prosecuting attorney that you work for. See Advisory Opinions 97-04, 98-02, 99-02, 2002-4 and 2000-11.

Very truly yours,

Edwin B. Alderson, Jr.
For the Committee