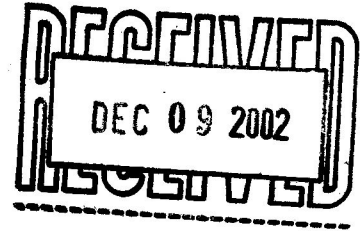


JUDICIAL ETHICS COMMITTEE
Advisory Opinion 02-8
Issued: 12/06/2002



Issue

Whether District Court Judges and Probate Court Judges may respond to a federal review survey being conducted by the U.S. Department of Health and Human Services to review state child and family service programs in order to ensure substantial conformity with the state plan requirements. Specifically, the review covers protective services, foster care, adoption, family preservation, family support, and independent living.

Statement of Facts

District Court and Probate Court Judges have received a request to invite their participation in the upcoming Child and Family Services Review being conducted by the U.S. Department of Health and Human Services. The Maine onsite review is scheduled for July 2003. The request indicates that the intent of the review is not merely to ensure compliance. Rather, it is designed to help states improve child welfare services and outcomes for families and children by identifying strengths and needs within the state systems. The review will identify areas where technical assistance can lead to program improvements. In communications with the Maine Department of Human Services, the Committee has been assured that the individual judge's survey responses will be kept strictly confidential.

Discussion

A similar inquiry previously was addressed to the Judicial Ethics Committee. That Committee believed that a judge's response to the survey there in question would not violate the Code of Judicial Conduct. See Advisory Opinion 97-2, September 4, 1997.

Conclusion

We agree that it is important that the judicial system be able to respond, in a confidential manner, to surveys from various agencies of government, particularly those which are working to improve child and family welfare services.

Our District and Probate Courts are the Courts with primary jurisdiction in these areas, and any improvement that may arise as a result of a survey benefits not only the Courts, but those who participate in matters before these various Courts.

We would close by again reminding the Judges of the District and Probate Courts that while we see no problem with regard to the survey in question, we note that other surveys on topics where a judge's responses might not be kept confidential and might be construed as relating to pending cases or as manifesting bias or prejudice could pose potential problems under the Judicial Code.