

*Arizona Supreme Court
Judicial Ethics Advisory Committee*

ADVISORY OPINION 09-02
(September 18, 2009)

Training on Equipment Used In Law Enforcement

Issues

May judges or judicial employees attend a court-only demonstration or training offered by a vendor of new technology or equipment, such as photo enforcement equipment?

Answer: No, with a qualification.

Facts

Vendors of equipment used by law enforcement or other parties appearing before the court will occasionally offer to conduct a court-only demonstration of the equipment.

Discussion

Advisory Opinion 03-08 addressed whether a judge may “attend a law enforcement training program at which officers discuss or demonstrate new devices, technologies, or police procedures.” The opinion concluded:

[J]udges should not attend seminars or training programs sponsored by or presented at a law enforcement agency in which officers might discuss new devices, technologies, or police procedures. To do so would unduly blur the line between judicial and law enforcement activities. It would impair if not directly contravene the fundamental principles of judicial independence, integrity, and impartiality. *See* N.Y. Adv. Op. 94-31 (March 10, 1994) (“It is unethical for judges to attend ‘training sessions’ sponsored by a law enforcement agency if the purpose is ‘to maximize enforcement.’”). And that is particularly so when the program is not open to all interested parties in the criminal law arena, such as defense counsel or investigators, but rather is limited to police officers and prosecutors.

The same opinion concluded that judges may attend continuing education seminars in which law enforcement personnel present information on various law enforcement topics, but warned that if an issue or evidence of the type discussed at the seminar arose in a case, judges “in that position must rule on the case based on the evidence introduced at trial and, for example, cannot consider any information about radar guns they might have learned from law enforcement at a seminar.”

The same analysis applies here. Equipment used in law enforcement may become the subject of litigation. It would be inappropriate for the judge or judicial staff to have received prior court-only training on the use and reliability of such equipment.

It is important, however, to distinguish this situation from cooperation between the executive branch and the judiciary in implementing new technology in the criminal justice system. Court administrative staff and even judicial officers may need a demonstration of and training on new technology used by law enforcement to understand how to effectively process cases that involve the use of the new technology. This is especially true as communications with the judiciary are increasingly accomplished by electronic means. To the extent this is necessary, however, it should be done on a limited basis under circumstances that recognize that the technology may be subject to litigation.

Applicable Code Sections

Arizona Code of Judicial Conduct, Canons 1A, 2A, 2B, 4A(1), 4C(4).

Other References

Arizona Judicial Ethics Advisory Committee, Opinion 03-08 (December 17, 2003).

New York Advisory Committee on Judicial Ethics, Opinion 94-31 (March 10, 1994).