

ADVISORY OPINION NO. 98-11

**Issued on May 7, 1998 by the
WEST VIRGINIA ETHICS COMMISSION**

PUBLIC SERVANT SEEKING OPINION

A Sheriff

OPINION SOUGHT

Is it a violation of the Ethics Act if a Sheriff uses his cruiser to travel with his spouse to a political meeting involving her candidacy for public office?

FACTS RELIED UPON BY THE COMMISSION

A Sheriff represents that he is on call at all times. The nature of his job, and unique specialized training related to public safety, require him to have constant access to his official vehicle so that he can maintain communications with his employees and coordinate emergency responses.

He inquires whether he would violate the Ethics Act if he uses his cruiser to accompany his spouse, a candidate for public office in her own right, to political activities associated with her candidacy.

PERTINENT STATUTORY PROVISIONS RELIED UPON BY THE COMMISSION

West Virginia Code 6B-2-5(b)(1) states in pertinent part that...a public official or public employee may not knowingly and intentionally use his or her office or the prestige of his or her office for his or her own private gain or that of another person. The performance of usual and customary duties associated with the office or position or the advancement of public policy goals or constituent services, without compensation, does not constitute the use of prestige of office for private gain.

ADVISORY OPINION

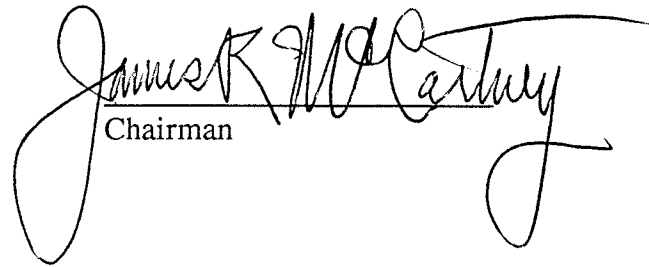
In Advisory Opinion 98-09 the Commission found that a Sheriff's special law enforcement responsibilities legitimized his use of his radio-equipped patrol car for most purely personal travel within the County. The public benefits from the Sheriff's use of the car to maintain contact with his office and field deputies when not on an active duty status. With the car he can more effectively monitor and direct his agency's police activities and react to crimes committed in his presence.

That Opinion also ruled that the Sheriff could engage in limited campaign activity while using the car in the course of carrying out his normal daily duties. However, the Opinion did place limits on the Sheriff's personal use of the car for certain campaign activities. It said the Sheriff should not use the car for the following activities, regardless of the time of day or duty status:

- transport campaign signs/banners
- transport campaign supporters or other candidates
- canvass streets or neighborhoods for support.

The Sheriff was not required to forego the use of the patrol car, from which he maintains departmental control, in order to attend a political function involving his own candidacy. However, that decision does not allow a Sheriff to accompany his spouse in his official cruiser to a political function involving her candidacy.

Therefore, the Commission finds that the ban on using a Sheriff's cruiser to transport campaign supporters or other candidates does apply to a Sheriff's travel with his or her spouse, who is a candidate and, presumably, a supporter of the Sheriff as well.



Chairman