

NEW YORK STATE BAR ASSOCIATION  
Professional Ethics Committee Opinion

Opinion #99-5/2/69 (29-68)

Topic: Conflict of Interests  
District Attorneys  
Digest: Improper for an Assistant  
District Attorney to repre-  
sent an accused in an adjoining  
county.  
Canons: *Former Canons 6, 29*

QUESTION

May an Assistant District Attorney defend an accused in a criminal matter in a county other than the county in which he is a prosecutor?

OPINION

The Committee is of the opinion that a prosecuting attorney, upon his election or appointment to that office, should not defend a person in a criminal matter.

In ABA 30, it was held that a public prosecutor in one state may not properly defend a person accused of a crime in another state. The reasons given are that it might jeopardize the helpful cooperation between law-enforcement officers of different jurisdictions, that it would be harmful to the interests of the public, which should be the prosecutor's first duty, that it would lower the dignity and honor of the profession, and lawyers should remain above suspicion.

Canon 6 of the Canons of Professional Ethics provides in part:

"It is unprofessional to represent conflicting interests ...within the meaning of this canon, a lawyer represents conflicting interests when, in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose."

A prosecuting attorney is the legal representative of the people of the state in criminal matters. The lawyer must always put the interests of his client ahead of his individual interests. If there is the slightest doubt as to whether or not the acceptance of professional employment will involve a conflict of interests between two clients, or may require the use of information obtained through the service of another client, the employment should be refused.

Opinion #100 - 5/2/69 (4-69)

Topic: Newspaper Publicity  
Digest: Press release referring to  
attorneys - indirect advertising  
Canon: *Former Canon 27*

QUESTION

Is it ethical for an attorney to promote, inspire or encourage a newspaper to publish a report regarding his individual attendance at a conference or symposium on a particular field of law also attended by the lawyers, emphasizing the name of the lawyer, the importance of the field of law and the importance of skill in such field.