



## Committee on Professional Ethics

Opinion #367 - 11/22/74 (46-74)

Modified by 544

Topic: Part-time County Attorney;  
Conflicts.

Digest: Part-time county attorney  
following assumption of  
public duties may not  
continue to represent  
private clients in criminal  
matters.

Code: Canon 9  
EC 8-8; 9-1; 9-2.

### QUESTION

May a lawyer who has become a part-time county attorney continue his representation in criminal cases of defendants who retained him prior to his becoming a public officer in cases still pending, either in the county in which he serves or any other county in the state?

### OPINION

It would be improper for a part-time county attorney to continue to represent defendants in criminal cases notwithstanding that the representation commenced prior to his taking public office.

EC 8-8 provides that:

"...A lawyer who is a public officer, whether full or part-time, should not engage in activities in which his personal or professional interests are or foreseeably may be in conflict with his official duties."

The part-time county attorney whose duties include criminal or quasi-criminal matters is, in the eyes of the public, a representative of the people. His continued representation of a defendant in a criminal case, irrespective of the county in which the case is pending, could lessen public confidence in the integrity and impartiality of our system of administering criminal justice. Such representation would thus be violative of Canon 9, EC 9-1 and EC 9-2, enjoining lawyers to "promote public confidence in our system and in the legal profession" and to "avoid even the appearance of professional impropriety." See, Drinker, Legal Ethics 118 (1953); ABA Inf. 922 (1966); ABA 136 (1935); N.Y. State 130 (1970); N.Y. State 171 (1970); N.Y. State 257 (1972); N.Y. State 300 (1973).