



Committee on Professional Ethics

Opinion #437 - 7/19/76 (46-76) Topic: Sharing office space with assistant district attorney.

Digest: Improper for lawyer who shares office space with an assistant district attorney to practice criminal law in the county for which the assistant district attorney has been appointed

Code: EC 9-6

QUESTION

May an attorney who shares office space with an assistant district attorney but has no partnership or other arrangement for sharing fees or business with the assistant district attorney practice criminal law in the County for which the assistant district attorney has been appointed?

OPINION

Clearly it would be inappropriate for the partner or the associate of the assistant district attorney to represent criminal defendants in the courts where the district attorney and his assistants are representing the State. In order to avoid an appearance of impropriety (EC 9-6) it has normally been held that one sharing office space should be disqualified to the same extent as a partner or associate. N.Y. State 65(a) (1970). That opinion involved a part-time judge and is based primarily on the necessity of promoting public confidence in the administration of justice. N.Y. State 29 (1966). See ABA 104 (1934); ABA Inf. 995 (1967); ABA Inf. 855 (1965); Drinker, Legal Ethics 106 (1953).

In N.Y. State 413 (1975) it was held to be improper for an assistant district attorney to enter into a business relationship with an attorney who defends clients prosecuted by the district attorney's office. The appearance of impropriety would be even greater where the assistant district attorney shares office space with the attorney who represents criminal defendants.
