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DOUGLAS E. CHRISTENSEN
OFFICE MANAGER

*ALSO LICENSED IN MINNESOTA
March 22, 1991

[REDACTED]

Dear [REDACTED]

RE: Ethics Committee Opinion Request

The Ethics Committee of the State Bar Association of North Dakota has addressed and discussed the questions raised in your letter of February 21, 1991.

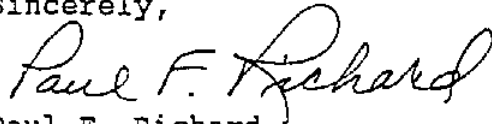
It was the opinion of the Ethics Committee that Rule 1.8(j) addresses the issue raised in your letter. The Committee believes that the Rule is clear that a part-time State's Attorney is free to perform criminal defense work in counties other than that which he holds a prosecutorial appointment. The comments to the Rule state that "there is no compromise to the public functions when the part-time . . . State's Attorney defends a person charged with a crime to be tried in another county." One of the caveats to this position appears to be that the part-time State's Attorney could not undertake the defense of a matter "if it involved parties or issues with which that part-time official had any involvement as a part-time State's Attorney." Thus, it would appear that it is not a violation of the Rules of Professional Conduct for a part-time State's Attorney to practice criminal defense in counties other than counties for which he or she is the State's Attorney as long as the representation does not involve parties or issues with which the part-time State's Attorney had any involvement as a State's Attorney.


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This letter opinion is issued to you for advisory purposes only and is not binding on you, the Court's of North Dakota, the Disciplinary Board, Grievance Committees, or any other member of the Bar of the State of North Dakota.

Sincerely,



Paul F. Richard
Chairman-Ethics Committee
State Bar Association of North Dakota
cc: Sherry King

91-02

[REDACTED]

February 21, 1991

Mr. Paul F. Richard
Chairman Ethics Committee
State Bar Assoc.
P.O. Box 6017
Fargo, ND 58108-6017

Subject: Ethics Opinion

Dear Mr. Richard:

I would like an opinion from the Ethics Committee on whether or not it is unethical for a part-time state's attorney to practice criminal defense in counties other than that county for which he or she is the state's attorney.

If the Committee concludes that it is unethical for a part-time state's attorney to practice criminal defense, what law, canon, or disciplinary rule is violated by practicing criminal defense.

Sincerely,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]