

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-44
Issued: April 1971

Modified by E-444 (2018)

Question: May an attorney who defends persons accused of crimes in circuit court share an office and secretary with a Commonwealth Attorney?

Answer: No.

OPINION

May attorneys share office space and a single secretary with C, who is Commonwealth's Attorney? The attorneys defend persons accused of crimes in Circuit Court in C's District. Is this ethical?

The mere fact that three attorneys who share office expenses and who are not actual partners may engage in adversary proceedings against one another is not per se unethical. Nevertheless it appears that the practices described above come within the condemnation expressed both in the old Canons of Professional Ethics and the new Code of Professional Responsibility adopted by the American Bar Association, both of which state, in effect, that attorneys should not only avoid improper conduct, but should avoid the "appearance of impropriety."

The situation described above is certainly fraught with temptation on the part of the Commonwealth's Attorney to display some favoritism in the handling of criminal cases with the two other attorneys who share office space and expenses with him. Likewise, the temptation on the part of persons accused of crimes is great to assume that their cases may receive favorable treatment in the event they retain one of the other attorneys in the suite of offices to represent them, and the general public would be prone to share this feeling, to say the least. Such parties would best serve the interest of justice and the ethical standing of the entire Bar by either completely disassociating themselves from any sort of financial arrangement, even the sharing of expenses, or else the office sharing attorneys should decline to accept any criminal cases in which the Commonwealth's Attorney is involved.

Note to Reader

This ethics opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). The Rule provides that formal opinions are advisory only.