

Digest of Ethics Advisory Panel
Opinion #91-30, Request #143
Issued May 23, 1990

An attorney seeks Panel advice as to whether a conflict of interest arises under circumstances in which a present client in a pending criminal matter has revealed information which implicates a former client. The attorney states that he/she represented the former client in connection with an unrelated misdemeanor charge. The attorney also states that the former client did not reveal to the attorney any information which might relate to the accusations made by the present client.

The Panel takes the position that Rhode Island Rule of Professional Conduct 1.9 controls this factual situation. Rule 1.9 provides:

A lawyer who has formerly represented a client in a matter shall not thereafter:

(a) represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client consents after consultation.

(b) use information relating to the representation to the disadvantage of the former client except as Rule 1.6 or Rule 3.3 would permit or require with respect to a client or when the information has become generally known.

The Panel takes the position that no conflict of interest arises under these circumstances because the attorney's representation of these two clients does not involve the same or a substantially related matter.

Ethics Advisory Panel advice is protective in nature. There is no requirement that an attorney abide by a Panel opinion, but if he or she does, he or she is fully protected from any charge of impropriety.