

ETHICS ADVISORY PANEL
Opinion #93-29, Request #362
Issued May 12, 1993

An attorney seeks Panel advice regarding his/her obligation to report a crime. The attorney is the administratrix of an estate in probate. While preparing for this matter, the attorney discovered that the decedent had an automobile at the time of death. The attorney discovered that one of the siblings brought a civil suit seeking to transfer title of the automobile to herself. The sibling stated in sworn affidavits, filed in court, that she was the sole heir at law and that she alone paid for all the funeral expenses of the decedent. This information was in fact untrue. The decedent left five siblings, an unknown spouse and a daughter. The attorney presented these facts to the probate judge. The judge advised the sibling that she should relinquish the automobile to the estate. The sibling complied with this suggestion. The attorney asks whether he/she has an obligation, as an officer of the court, to report this sibling to the proper authorities.

The Panel opines that the attorney has an obligation not to violate Rule 1.6 entitled "Confidentiality of Information." Rule 1.6(a) states that:

(a) A lawyer shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosure that are impliedly authorized in order to carry out the representation . . .

Assuming the inquiring attorney has the consent of her client, the attorney may report the alleged crime but is not obligated to do so. In addition, the attorney fulfilled the obligation imposed upon by Rule 3.3 entitled "Candor Toward The Tribunal." But see the comments to Rule 3.3, entitled "Constitutional Requirements".