

ETHICS ADVISORY PANEL
Opinion #93-32, Request #366
Issued May 12, 1993

A criminal defense attorney asks whether it is permissible to contact a victim directly while a criminal matter is pending.

The Panel cites Rule 4.3 with regard to this inquiry. Rule 4.3 entitled "Dealing With Unrepresented Person" states that:

In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding.

The prosecution's client is the state in a criminal matter, not the victim. The inquiring attorney advises the Panel that the victim is not represented by an attorney, therefore, Rule 4.2 entitled "Communication With Person Represented By Counsel" does not apply to the facts as presented to the Panel. The decision to communicate with either the defense attorney or the prosecutor belongs to the victim. As long as the defense attorney complies with Rule 4.3, contact with the victim is allowed.