

ETHICS ADVISORY PANEL
OPINION #93-92 REQUEST #436
Issued December 8, 1993

The inquiring attorney represents a wife in a divorce case in which the wife seeks custody of the children. One of the wife's children alleges that the wife's boyfriend sexually assaulted him/her. The inquiring attorney asks whether he/she may also represent the boyfriend in the sexual assault matter.

Rule 1.7 entitled "Conflict of Interest: General Rule provides in part as follows:

(b) A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless:

(1) the lawyer reasonably believes the representation will not be adversely affected; and

(2) the client consents after consultation. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.

Under the facts as described by the inquiring attorney, the Panel is unable to determine whether the inquiring attorney's representation of the boyfriend in the sexual assault matter would violate the above-stated Rule. However, the Panel speculates that the representation of the boyfriend could materially limit the inquiring attorney's responsibilities to the wife in the divorce/custody matter. Thus, in order to undertake the proposed representation the inquiring attorney must reasonably believe that the representation will not materially limit the inquiring attorney's responsibilities to the wife and obtain client consent after consultation.