

ETHICS ADVISORY PANEL  
OPINION #94-13 REQUEST #466  
Issued March 23, 1994

The inquiring attorney is currently an assistant town solicitor who prosecutes criminal defendants in District Court located in Town A. The attorney also represents the town in breathalyzer refusal adjudicative hearings. The attorney will soon become an associate with Law Firm X which frequently represents defendants in criminal cases brought by Town A. The attorney is resigning as prosecutor for Town A but would like to continue representing Town A in the civil proceedings. The attorney asks whether this situation would create a conflict of interest.

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

(a) A lawyer shall not represent a client if the representation of that client will be directly adverse to another client, unless:

(1) the lawyer reasonably believes the representation will not adversely affect the relationship with the other client; and

(2) each client consents after consultation.

Under the facts of this inquiry, the Panel believes that the inquiring attorney may continue to represent Town A in the civil refusal hearings if the attorney reasonably believes that the representation of the Town or a client adverse to the Town will not adversely affect the relationship with either client and the attorney must obtain the consent of the Town and each such client adverse to the Town.