

ETHICS ADVISORY PANEL
OPINION # 95-34, Request # 601
Issued - July 13, 1995

The inquiring attorney represents a defendant in a criminal matter. The prosecution may call the victim's grandmother as a witness. Just recently, the prosecution informed the inquiring attorney that he/she represented the grandmother in 1984 regarding a domestic relations matter. The inquiring attorney asks whether there is a conflict of interest.

The Rule that is applicable to this inquiry is 1.9 "Conflict of Interest: Former Client" which states:

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; or

(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.

According to the Rule, in order to have a conflict of interest between a former client and a present client, the matters must be the same or substantially related. The former client's case was a domestic relations matter not involving the current client.

The Panel opines that because the matters are not the same or substantially related, the inquiring attorney does not have a conflict of interest in representing the criminal defendant.