



OFFICES OF THE
ATTORNEY GENERAL OF MISSOURI
JEFFERSON CITY

JOHN C. DANFORTH
ATTORNEY GENERAL

June 18, 1974

OPINION LETTER NO. 229

Honorable Kenneth J. Rothman
Representative, District 77
90 Aberdeen Place
Clayton, Missouri 63105

Dear Representative Rothman:

This letter is in response to your question asking:

"Whether under the Public Defender Bill, it would be a conflict of interest or impermissible for an employee of the Public Defender's Office working part-time under a federal grant and handling misdemeanors only to represent private non-indigent clients in felonies and misdemeanors in the same circuit as the one in which he is a part-time attorney for the Public Defender's Office."

It is our view that such a question should be directed to the Missouri Bar Advisory Committee in view of the authority to rule on such questions given to the Committee under Supreme Court Rule 5.16.

We note that the Committee has already ruled in this area in that in an informal opinion issued January 16, 1974, the Committee held that ". . . since the Assistant Public Defender himself cannot defend a criminal defendant for a fee this prohibits his partners from doing so as well. . . ." A copy of that opinion is enclosed.

Yours very truly,

A handwritten signature in cursive script that reads "John C. Danforth".

JOHN C. DANFORTH
Attorney General

Enclosure

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January 16, 1974

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Mr. Ellsworth Cundiff, Jr.
Attorney at Law
524 Jefferson Street
St. Charles, Missouri 63301

Re: Assistant Public Defenders

Dear Mr. Cundiff:

The Advisory Committee has considered your question as to whether partners of an Assistant Public Defender can represent a criminal defendant for a fee. It is our conclusion that since the Assistant Public Defender himself cannot defend a criminal defendant for a fee this prohibits his partners from doing so as well. We feel that to rule otherwise would allow the Assistant Public Defender to share in the fees for criminal defense, which the Statute apparently intends to prohibit.

This is an informal opinion and will not be published at this time.

Sincerely,

Harold W. Barrick
General Chairman

HWB/cam

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