

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-357
Issued: March 1993

Question: May lawyers in a law firm with a part-time associate or affiliated lawyer who is also a full-time police officer undertake the representation of a defendant in a criminal matter arising in the same jurisdiction in which the associate exercises his police power?

Answer: No.

References: Tucker v. KBA, 550 S.W.2d 467 (1977); KBA E-137 (1976); New York State Op. 615 (1991); In re Inquiry to the Advisory Committee, ___ N.J. ___ (1992); 8 ABA/BNA Law.Man.Prof.Con. No. 25, p. 420 (1993); ABA Formal Op. 84-351 (1984); Kentucky Op. E-311 (1986).

OPINION

On several occasions the Committee has been asked to revisit, reverse, or in one way or another modify KBA E-137 so that police officer lawyers may associate with lawyers or firms that wish to continue to defend criminal cases. After discussion and deliberation, and consideration of recent opinions from other jurisdictions, the Committee concludes that there is no reason to change its earlier opinion on the matter. We answer the question "No."

We also remind the Bar that other forms of affiliation, such as "Of Counsel", also call for the application of ordinary rules of conflict of interest. ABA Formal Op. 84-351 (1984); Kentucky Op. E-311 (1986).

Note to Reader

This ethics opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). Note that the Rule provides: "Both informal and formal opinions shall be advisory only; however, no attorney shall be disciplined for any professional act on his part performed in compliance with an opinion furnished to him on his petition, provided his petition clearly, fairly, accurately and completely states his contemplated professional act."