

Utah Ethics Opinions

1977.

35. USB EAOOC Opinion No. 35

Utah State Bar

Ethics Advisory Opinion No. 35

Approved January 27, 1977

Summary: If one lawyer in an office cannot act as defense counsel in a particular court because of a position as city or county attorney, other lawyers in that office are also disqualified.

A pro-tem city judge may not defend criminal matters in the same court where he acts as a judge.

Comments: See Utah Opinions 4 and 20.

Facts: You have asked for an opinion of the ethics Committee based upon the following facts:

You are the pro-tem justice of the peace for N.L. city to sit on all cases in that court where a law-trained judge is requested. You are the public defender for C county. You have an office sharing arrangement with the city attorney and deputy city attorney of L city, the major city in C county. Your question basically relates to potential or actual conflict of interest and you seek advice relative to the interrelationships.

Opinion: Addressing the last relationship first, that is, the office sharing arrangement, this body has held in Utah Opinion 34 that an office sharing arrangement disqualifies each person within that arrangement from doing that which any one of the parties may not do.

Since neither the city attorney nor the deputy city attorney can defend criminal matters in L city, you would be precluded from handling them also.

It follows, of course, that neither of the remaining two may represent the other side in civil litigation where one of you represents a party to the litigation.

Rule Cited:

Utah Opinions 4