

SUBJECT: COUNTY ATTORNEY REPRESENTING CLIENTS BEFORE MAGISTRATE

SUMMARY:

A County Attorney is advised against representation of clients on matters in which the Sheriff's Office is the arresting agency. He is also advised against representing clients in magistrate's court when he has advised the magistrate's office on legal matters.

QUESTION:

The Dillon County Attorney questions whether a county attorney is permitted to represent clients in General Sessions Court when the County authorities such as the Sheriff's officers, make the arrest. He also states that he advises the Sheriff's Office and Magistrate's Office concerning legal problems. He questions whether it is proper to represent a defendant who is arrested by the Sheriff's Office and/or has a warrant issued by a magistrate from the county.

DISCUSSION:

This opinion is rendered in response to a letter dated March 16, 1992 requesting an opinion from the State Ethics Commission. The Commission's jurisdiction is limited to the applicability of the Ethics, Government Accountability, and Campaign Reform Act of 1991 (Act No. 248 of 1991; Section 8-13-100 et. seq., as amended, 1976 Code of Laws). This opinion does not supersede any other statutory or regulatory restrictions or procedures which may apply to this situation.

In Advisory Opinion SEC AO92-001, the Commission that a City Attorney has an interest in the outcome of a case brought by city officials. The State Ethics Commission advised that the City Attorney against representation of clients in general sessions court when the city is the arresting agency.

From the facts as submitted, it appears that no significant difference exists between that and the earlier opinion SEC AO92-001. The Commission therefore advises that the County Attorney not represent clients in matters in which the county has been the arresting agency and in which the county has a stake in the outcome of such matter. The Commission further advises against representation of clients before a magistrate for whom legal advice has been rendered.