

# *The Supreme Court of Ohio*

BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

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## **OPINION 89-09**

Issued April 14, 1989

***Withdrawn by Adv. Op. 2019-08***

*[CPR Opinion-provides advice under the Ohio Code of Professional Responsibility which is superseded by the Ohio Rules of Professional Conduct, eff. 2/1/2007.]*

**SYLLABUS:** A municipal prosecutor, who has knowledge that a criminal defense attorney is employed as an associate in the same law firm as the county prosecutor, has a duty, under DR 1-103 of the Code of Professional Responsibility, to report such knowledge to a tribunal or other authority empowered to investigate or act upon such violation.

**OPINION:** We have before us your request for our opinion concerning the duty of a municipal prosecutor when he or she knows that a criminal defense attorney is employed by the same law firm as the county prosecutor. Advisory Opinion 88-008 thoroughly examines the issue of prosecutors representing criminal defendants. When a member of a law firm may not accept employment then other members of that law firm are likewise precluded from accepting such employment.

Disciplinary Rule 1-103 clearly states that a lawyer who possesses knowledge of a violation of a Disciplinary Rule has a duty to report that knowledge to the authorities that have the responsibility to investigate such violations. The reason for this duty is that every lawyer has the ethical responsibility for maintaining the integrity and improving the competence of the bar. Ethical Consideration 1-1. According to Ethical Consideration 1-4:

The integrity of the profession can be maintained only if conduct of lawyers in violation of the Disciplinary Rules is brought to the attention of the proper officials. A lawyer should reveal voluntarily to those officials all unprivileged knowledge of conduct of lawyers which he believes clearly to be in violation of the Disciplinary Rules.

It is our opinion and you are so advised that a municipal prosecutor, who has knowledge of a violation of a Disciplinary Rule, has a responsibility to report that knowledge to the proper authorities. Such a situation arises when a municipal prosecutor knows that a criminal defense attorney is employed by the same law firm as the county prosecutor.

**This opinion is advisory in nature, is based upon the facts as presented and is limited to questions arising under the Code of Professional Responsibility.**