

You advise that you are a newly elected Commonwealth's Attorney. Prior to your taking office as Commonwealth's Attorney, you were employed by Law Firm X which has a large criminal practice. Client A is represented by Law Firm Y on assault and battery; B is the complaining witness. B is represented by your former law firm, X. Counsel for A, Law Firm Y, alleges a conflict of interest and requests that you disqualify yourself as Commonwealth's Attorney in the prosecution of A.

You wish to know whether you must disqualify yourself as Commonwealth's Attorney in the above-described situation.

If you were not involved with B's case, and if you have no confidential information relative to the case as a result of your earlier employment, then the presumption that you acquired confidential information based on your relationship with Law Firm X could be rebutted. There is nothing within the Code of Professional Responsibility which would prohibit you from prosecuting A. For your reference, LE Op. 763 and LE Op. 933 should be helpful to you in your new position.

Committee Opinion
March 1, 1988