

Basically, you advise that you represent a regional jail commission on an hourly basis and have been giving legal advice to that commission for over a year. The funding of the jail comes from the state, the county and cities A and B. Of the five voting commissioners on the commission, one is appointed by city A's city council. The appointee on the commission from city A at this point is the assistant to city A's chief of police. You have recently received a court appointment for an indigent defendant from the general district court in city A. Client X is charged with a misdemeanor of obstruction of justice and assault and battery of a police officer. You feel that client X has a legitimate civil rights action against a police officer from city A for injuries received and also against the police department of city A for neglect in securing medical treatment for the injuries.

You wish to know whether or not you may represent X in this matter.

Disciplinary Rule 5-101(A) [DR:5-101] states that a lawyer shall not accept employment if the exercise of his professional judgment on behalf of his client may be affected by his own financial business property or personal interests except with the consent of his client after full and adequate disclosure under the circumstances. Disciplinary Rule 5-105(A) states that a lawyer shall decline proffered employment if the exercise of his independent professional judgment on behalf of a client will be or is likely to be adversely affected by the acceptance of the proffered employment except to the extent permitted under DR:5-105(C). Disciplinary Rule 5-105(C) states that in the situations covered by DR:5-105(A) and (B), a lawyer may represent multiple clients if it is obvious that he can adequately represent the interests of each and if each consents to the representation after full disclosure of the possible effect of such representation on the exercise of his independent professional judgment on behalf of each.

The Committee opines that it is not improper for you to represent client X as long as disclosure is made and consent received from both X and the jail commission. The Committee does not believe that DR:5-105 is applicable to your inquiry since the Committee does not believe that the two matters are substantially related.

Committee Opinion
June 16, 1988