

Committee Opinion  
March 1, 1984

LEGAL ETHICS OPINION 542

CONFIDENTIALITY – REVEALING A  
CONTEMPLATED CRIME.

Client was charged with a first offense of driving under the influence as initially represented to the attorney. However, attorney subsequently determined that his client had been driving a brother's car and had been charged in the brother's name based upon the registration of the car. Client later admitted this to the attorney, stated that he would admit same in court, and asked the attorney to notify the court. Attorney was subsequently asked to postpone the notification to the court. The driving record of the client revealed an extensive list of convictions including a suspension and a second instance of driving under the influence.

Under the requirements of DR:4-101(D), an attorney is required to reveal the intention of his client to commit a crime; first, however, the attorney may try to dissuade his client from the criminal act and encourage the client to notify the court of the error in charges. If the client cannot be dissuaded and the crime involves perjury, the attorney must reveal the error to the court and withdraw from further representation.

If the client commits perjury despite assurances to his lawyer that he would not, the attorney has the duty to disclose the commission of the crime to the court.

The attorney has no obligation to reveal his client's driving record to the court or to the commonwealth's attorney, nor does he have an obligation to reveal his client's perjury to the commonwealth's attorney. [DR:4-101(D), DR:7-101(A)(3), LE Op. 341]

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