
E-86-1 Conflict of interest: Assistant district attorney's spouse a sheriff's deputy

Question

If an assistant district attorney's spouse is a deputy sheriff in the same county, do the standards of conduct applicable to attorneys require the assistant district attorney to treat cases investigated by the spouse different than those investigated by other law enforcement personnel?

Opinion

No, provided, obviously, that the spouse's official conduct does not itself become subject to possible prosecution. Otherwise, there is no ethical reason of which this Committee on Professional Ethics is aware why the assistant district attorney's official contact with the deputy sheriff spouse should differ from that with the spouse's colleagues. For further guidance, review of our Opinion E-85-2, 58 Wis. Bar Bull. 58 (April 1985), is recommended. In that opinion, we conclude that, even in the criminal defense lawyer/sheriff's spouse situation, there is no absolute prohibition against the lawyer representing clients investigated by the spouse. In your situation, in which the spouses are clearly less—if not “non”—adversarial, there is substantially less concern from the standpoint of legal ethics.