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November 22, 1994

Re: Request for Ethics Opinion 94-19

You have requested an opinion from this Committee concerning the following facts.

FACTS

You have applied for a position as an associate with a private firm in South Dakota. Part of that job would include taking criminal defense appointments from the local circuit court. You have been dating a man for the past year who is currently Deputy State's Attorney in the same county in which you would be doing criminal defense work. You have asked this Committee whether or not it would be permissible for you to do criminal defense work in that county given your current relationship with the Deputy State's Attorney in that county.

OPINION

It is the opinion of this Committee that nothing contained within the South Dakota Rules of Professional Conduct would per se disqualify you from doing criminal defense appointments in that county. See, Ethics Opinion 94-17, Ethics Opinion 85-2. It would be advisable, however, for the State's Attorney to assign prosecution to a different Deputy State's Attorney in those cases in which you are defending. It is also recommended that under Rule

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1.7 disclosure be made to your client and the client's consent obtained.

Sincerely,

Michael S. McKnight, Chairman
Ethics Committee