



OHIO ETHICS COMMISSION

THE ATLAS BUILDING
8 EAST LONG STREET, SUITE 210
COLUMBUS, OHIO 43215
(614) 466-7090

Advisory Opinion No. 83-009
September 15, 1983

Syllabus by the Commission:

The Ohio Ethics Law and related statutes do not prohibit a county prosecutor from representing a joint ambulance district in his private capacity, provided that the representation is not before agencies of the county, and not on a matter in which he personally participated as a public official.

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You asked whether the Ohio Ethics Law and related statutes prohibit a county prosecutor from representing, in his private capacity as an attorney, a joint ambulance district comprised of townships within and without his county.

You stated, by way of history, that Attorney General Opinion No. 79-039 held that a county prosecutor does not represent a joint ambulance district in his capacity as prosecutor. The opinion indicated that a joint ambulance district is a separate legal entity, and that the county prosecutor is not required to provide legal services to the joint ambulance district. However, the district is permitted to retain separate legal counsel under a contract for legal services.

Division (C) of Section 102.04 of the Revised Code prohibits a person who is elected or appointed to an office of a county from receiving compensation, directly or indirectly, other than from the agency with which he serves, for personal services rendered on any case, proceeding, application, or other matter before the same entity of government, excluding the courts. A county prosecutor is a person elected to an office of a county. Therefore, a county prosecutor is prohibited from receiving compensation from a client, such as the joint ambulance district, for personal services rendered on matters before the county. However, he is not prohibited from representing a client, including a joint ambulance district, on matters before the courts or before agencies of other entities of government.

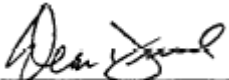
Division (A) of Section 102.03 of the Revised Code prohibits a present or former public official or employee from representing a client, or acting in a representative capacity for any person, before any public agency on any matter in which he personally participated as a public official or employee. The prohibition applies during government service and for one year thereafter. A county prosecutor is a "public official or employee" as defined in Division (B) of Section 102.01 of the Revised Code. Therefore, a county prosecutor is prohibited from representing a joint ambulance district before any public agency on any matter in which he has personally participated while in government service. However, assuming that the county prosecutor does not represent the joint ambulance district in his official capacity, and that his

private representation of the ambulance district does not involve a matter in which he has personally participated on behalf of the county, the prohibition would not apply.

Division (A)(4) of Section 2921.42 of the Revised Code prohibits a public official from having an interest in a public contract with the entity of government with which he is connected. A county prosecutor is a "public official" as defined in Division (A) of Section 2921.01 of the Revised Code. A contract between a joint ambulance district and an attorney for provision of legal services to the district is a "public contract" as defined in Division (E)(1) of Section 2921.42 of the Revised Code. However, the joint ambulance district is a separate governmental entity from the county with which the county prosecutor serves. Therefore, a county prosecutor retained by a joint ambulance district to provide legal services in his private capacity as an attorney would not have a prohibited interest in a public contract.

The conclusions of this opinion are based upon the facts presented, and are rendered only with regard to questions arising under Chapter 102. and Section 2921.42 of the Revised Code.

Therefore, it is the opinion of the Ohio Ethics Commission, and you are so advised, that the Ohio Ethics Law and related statutes do not prohibit a county prosecutor from representing a joint ambulance district in his private capacity, provided that the representation is not before agencies of the county, and not on a matter in which he personally participated as a public official.


Dean S. Lucal, Chairman
Ohio Ethics Commission