

**KENTUCKY BAR ASSOCIATION**  
**Ethics Opinion KBA E-96**  
Issued: July 1974

***This opinion was decided under the Code of Professional Responsibility, which was in effect from 1971 to 1990. Lawyers should consult the current version of the Rules of Professional Conduct and Comments, SCR 3.130 (available at <http://www.kybar.org>), before relying on this opinion.***

**Question:** May an attorney serving as a member of the public defender program in one county ethically share office space with an attorney holding the position of county trial commissioner in another county?

**Answer:** Yes.

**OPINION**

An attorney contemplates an office sharing arrangement with another attorney and has requested our guidance. He presently holds a position as member of the public defender program in one county, while the attorney with whom he wishes to share space serves as trial commissioner in another county. The office would be located in the latter county, and the attorney's official duties would not require him to appear before the commissioner. In these circumstances he asks whether the arrangement would be ethical.

In opinion KBA E-44, we found that an attorney defending persons accused of crime in circuit court could not share an office and secretary with a Commonwealth attorney because of the "appearance of impropriety" in such arrangement. Later, in Opinion KBA E-61 it was noted that an attorney who shares a law office with a police judge could not represent persons arraigned before the police judge. Again, the basis of this ruling was the likelihood that the public might infer improper influence from the relationship between attorney and judge.

The ethical considerations which led to these conclusions are totally absent from the present inquiry. Since the public defender's duties would not require him to appear before the commissioner with whom he intends to share space, the inference of improper influence would not exist. In the absence of such inference, the Committee has concluded there would be nothing improper in the suggested arrangement. We hasten to add, however, that quite apart from his duties as public defender, the inquiring attorney should avoid any appearances before the commissioner in question, since to do so would invite public speculation of the type condemned in the opinions referred to above.

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***Note to Reader***

*This ethics opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). The Rule provides that formal opinions are advisory only.*