

KENTUCKY BAR ASSOCIATION
Ethics Opinion KBA E-128
Issued: November 1975

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 a county attorney share an office with the judge of the police court of a city in the county?

Answer: No.

References: KRS 69.210(3); *In re Kenton County Bar Assn*, 314 Ky. 664, 236 S.W.2d 906 (1951); Opinion KBA E-61 (1972); EC 5-17, 8-8; ABA Formal Opinion 135 (1935)

OPINION

A city police judge may not defend a criminal case in any court in the county in which he sits, *In re Kenton County Bar Assn*, 314 Ky. 664, 236 S.W.2d 906 (Ky 1951). In Opinion KBA E-61 (1972), we extended this principle to prohibit lawyers who share office space with a police judge from defending criminal cases which originated before the police judge. Obviously, the same principle would prohibit a lawyer who shares office space with a police judge from prosecuting criminal cases which originated before the police judge.

KRS 69.210(3) requires the county attorney to aid the Commonwealth Attorney in all prosecutions in the circuit court of his county and to perform the duties of the Commonwealth Attorney in that court during the latter's absence. Many, and in some counties, most of the prosecutions in circuit court originate as examining trials in a city police court. If a county attorney shared offices with a city police judge, he would have to abdicate his duty under KRS 69.210(3) frequently. This he cannot properly do, Code of Professional Responsibility, EC 5-17, 8-8; ABA Formal Opinion 135 (1935).

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.