

Office of Government Ethics

87 x 5 -- 03/27/87

Letter to an Agency Ethics Official dated March 27, 1987

This is in response to your letter (with its attachments) of February 27, 1987. By your letter, you request an opinion as to whether [a] former United States Attorney is disqualified from assisting his firm in representing [an individual] in cases with the United States Attorneys' offices [in districts other than the one in which he served].

From the submissions in this case, we find that various Federal districts and the Drug Enforcement Administration were engaged in an investigation of the importation and distribution of controlled substances. [The former U.S. Attorney's office] participated in this matter. An issue arose as to whether [the individual who the former U.S. Attorney now wishes to represent] should be prosecuted by other Federal districts. The issue was a dispute among various Federal districts, in which the [former U.S. Attorney's office] participated, as to whether the Government should pursue prosecution of [the individual] or exploit his value as a witness against other individuals. There has now arisen a situation in which [the individual] has been indicted by [a U.S. Attorney's office in a district other than the one in which the former U.S. Attorney served] on narcotics offenses that allegedly took place prior to the entry of a plea agreement in [a third district]. Under the terms of the plea agreement, it is purported that the United States is bound not to prosecute [the individual] for any other narcotics violations occurring before its entry. [The former U.S. Attorney] now wishes to participate in his firm's representation of [the individual] with regard to enforcing the plea agreement and defending the charges.

Accordingly, we conclude that pursuant to 18 U.S.C. § 207(b)(i), [the former U.S. Attorney] is barred from representing [the individual] in matters relating to the plea agreement and narcotics prosecution as these are matters which were actually pending under his responsibility as [a] former United States Attorney for the [district in which he served]. See 5 C.F.R. § 737.7. The material submitted indicates that these matters were actually pending through the termination of [the former U.S. Attorney's] Government service. Therefore,

under the statute, [he] is barred [for two years following his termination of service as U.S. Attorney for that district].

Sincerely,

David H. Martin
Director