

Nebraska Ethics Advisory Opinion for Lawyers  
No. 72-14

IN [OPINION NO. 72-13](#), THE COMMITTEE CONCLUDED THAT A CITY OR VILLAGE ATTORNEY WHOSE DUTIES INCLUDE PROSECUTION OF VIOLATIONS OF ORDINANCES AND STATE STATUTES MAY NOT VOLUNTARY REPRESENT ANYONE CHARGED WITH A CRIME. INQUIRY HAS BEEN MADE AS TO WHETHER OR NOT THE PROHIBITION APPLIES TO A SITUATION WHERE THE CITY OR VILLAGE ATTORNEY IS COURT-APPOINTED IN THE CRIMINAL MATTER.

It is implicit in the opinions of the Advisory Committee on this subject that the representation of defendants in criminal matters is voluntary on the part of the city or village attorney and presumably undertaken for compensation, and the ethical prohibition extends to that situation. A different case is presented where a judge appoints a lawyer who happens to be a city or village attorney to represent a person charged with a crime.

The Committee does not feel that a court can or should be bound by the limitation imposed under the Code upon an attorney's voluntary action, where the court is discharging its obligations to make representation available to accused persons.

Hence, [Opinion No. 72-13](#) should not be construed as pertaining to a situation where a city or village attorney is appointed by a judge to defend a person accused of a crime.