

Nebraska Ethics Advisory Opinion for Lawyers
No. 86-1

IT HAS BEEN BROUGHT TO THE ATTENTION OF THE COMMITTEE THAT IN CERTAIN OF THE SMALLER COMMUNITIES IN NEBRASKA A CITY ATTORNEY WILL, BY EXPRESS CONTRACT, ADVISE CONCERNING CIVIL MATTERS ONLY AND WILL NOT ENGAGE IN ANY PROSECUTORIAL ACTIVITY WHATEVER. SUCH CONTRACTS HAVE BEEN ENTERED INTO EXPRESSLY TO LEAVE THE CITY ATTORNEY AND HIS OR HER LAW FIRM FREE TO HANDLE CRIMINAL DEFENSE WORK. IN THE ABSENCE OF SUCH AN ARRANGEMENT, IT MIGHT BE DIFFICULT FOR PERSONS IN RURAL OR SPARSELY SETTLED AREAS OF THE STATE WHO HAVE BEEN ACCUSED OF CRIME TO SECURE THE SERVICES FOR A LAWYER OF THEIR CHOICE. IT IS THE OPINION OF THE COMMITTEE THAT SUCH CONSIDERATIONS OUTWEIGH ANY APPEARANCE OF IMPROPRIETY.

The Committee hereby amends Formal [Opinion No. 74-5](#) by inserting the following sentence in the headnote and body thereof:

"A city attorney who, by express contract with the city, has no prosecutorial responsibilities is not limited in the representation of criminal defendants."

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