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**E-83-17 Corporation counsel representing  
mother and state in paternity actions**

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**Question**

May an assistant corporation counsel who represents the state in paternity actions also represent the mother in the paternity proceedings?

**Answer**

Yes, provided the mother is advised, at the beginning of the representation, of the corporation counsel's primary duty to the state and as to the scope of the corporation counsel's representation.

**Opinion**

The Wisconsin Code of Professional Responsibility, codified as Chapter 20 of the Wisconsin Supreme Court Rules, provides that the professional judgment of a lawyer should be exercised solely for the benefit of the client and free of compromising influences and loyalties. SCR 20.23(1). If a lawyer is requested to undertake or to continue the representation of multiple clients having potentially different interests, he or she must weigh carefully the possibility that his or her judgment may be impaired or his or her loyalty divided if he or she accepts or continues the employment. SCR 20.23(3)(b). If the interests of multiple clients vary only slightly, it is generally likely that the lawyer will not be subjected to an adverse influence and that he or she can retain his or her independent judgment on behalf of each client; and if the interests become differing, withdrawal is less likely to have a disruptive effect upon the causes of his or her clients. SCR 20.23(3)(b).

The Professional Ethics Committee recognizes that federal law requires AFDC applicants to cooperate with the state in establishing paternity. 42 U.S.C.A. sec. 602 (1981). And it should not be overlooked that clients in a poverty group may tend to be submissive and to acquiesce in the representation by the corporation counsel—feeling that they have no choice, but at the same time feeling concerned that they may not be getting independent representation.

*See* ABA Formal Opinion 345 (July 13, 1979). However, the duty of a lawyer to represent the indigent has long been recognized, (*see* ABA Formal Opinion 55 (1931) and Informal Opinion 1111 (June 18, 1969)), and under the situation set forth it appears the corporation counsel can adequately represent both clients in the paternity action.

In the situation presented, the interests of the state and the mother in the paternity action are substantially the same—to establish paternity and obtain child support. Although the potential for differing interests certainly exists, the committee feels the limited multiple representation is justified under the circumstances. The attorney is reminded that both clients must be fully advised of the multiple representation, including the corporation counsel's primary loyalty to the state, and consent of both clients must be obtained before undertaking the representation. Furthermore, the attorney is obligated to protect the confidences of both clients against disclosure. ABA Informal Opinion 1476 (Aug. 11, 1981).