

EXECUTIVE BRANCH ETHICS COMMISSION  
**ADVISORY OPINION 99-47**  
December 10, 1999

RE: Reconsideration of Advisory Opinion 99-40

DECISION: Uphold Original Opinion

This opinion is in response to your October 28, 1999, request for a reconsideration of Advisory Opinion 99-40 by the Executive Branch Ethics Commission (the "Commission"). This matter was reviewed at the December 10, 1999, meeting of the Commission and the following opinion is issued.

You state the relevant facts as follows. You noted a misstatement in Advisory Opinion 99-40 in that you do not have a private contract with the Public Advocacy Commission, but with the Department for Public Advocacy. You submit that the Public Advocacy Commission has general supervisory powers over the Department for Public Advocacy; however, you state that the Director of the Department of Public Advocacy (Public Advocate) makes the decision with whom to contract for representation of indigent criminal defendants. Thus, you do not believe that a conflict of interest exists.

The Commission notes that KRS 31.015(6) provides the following regarding the Public Advocacy Commission:

- (6) The commission shall:
  - (a) Receive applications, interview, and recommend to the Governor three (3) attorneys as nominees for appointment as the public advocate;
  - (b) Assist the public advocate in drawing up procedures for the selection of his staff;
  - (c) Review the performance of the public advocacy system and provide general supervision of the public advocate;
  - (d) Assist the Department of Public Advocacy in ensuring its independence through public education regarding the purposes of the public advocacy system; and

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(e) Review and adopt an annual budget prepared by the public advocate for the system and provide support for budgetary requests to the General Assembly.

Because the Public Advocacy Commission's mission and responsibilities appear to be intertwined with the Department's, the Commission believes for purposes of the ethics code that the Public Advocacy Commission and the Department for Public Advocacy are part of the same state agency. See Advisory Opinion 97-11. Thus, the Commission upholds its original opinion issued addressing this request.

Sincerely,

EXECUTIVE BRANCH ETHICS COMMISSION

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By Chair: Bertie Oldham Salyer, M.A., A.M.E.