

BEFORE THE INDIGENT REPRESENTATION TASK FORCE

April 29, 2016, at Trenton, Tennessee

Joe Atnip, Public Defender, 27th Judicial District

Topic Addressed: The adequacy and uniformity of the current standards for determining whether a District Public Defender has a conflict of interest.

Postulate: The majority of difficult conflict decisions involve cases in which a witness in the case is a former client of the Public Defender.

The following question could be used to simplify the conflict analysis and may contribute to a more uniform standard for determining when the Public Defender has a conflict.

I. WILL THE PUBLIC DEFENDER BE ABLE TO EFFECTIVELY CROSS-EXAMINE THE FORMER CLIENT?

The following subset of questions are just a few of the many inquiries that might be employed to answer the above fundamental issue:

- A. Were there any confidences revealed to the Public Defender that can be used against the former client during cross-examination?
- B. Is there any reason the Public Defender will not be able to cross-examine the former client as effectively as any other attorney?
- C. Was the former client so disgruntled that there is a likelihood he will try to air his issues about the former case during cross-examination?