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ETHICS FOR THE GOVERNMENT LAWYER

MONTANA LEAGUE OF CITIES AND TOWNS

Great Falls, September 29, 2017

- I. Who is the Client and why does it matter?
 - A. Rule 1.13 and the Government Lawyer
 - B. Rule 1.2 Decision-Making Power
 - C. Rule 1.6 Confidentiality and Attorney Client Privilege

- II. Is there a duty to serve the public interest and why does it matter?
 - A. Identifying the public interest
 - B. Discovery obligations, rights of citizens, and candor to tribunal
 - C. When client interests conflict with the public interest

Resources:

Hugh D. Spitzer, *Model Rule 5.7 and Lawyers in Government Jobs-How Can They Ever Be "Non-Lawyers"?*, 30 Geo. J. Leg. Ethics 45 (2017) (application of the rules of professional conduct to licensed attorneys who serve in non-lawyer jobs in government)

John M. Burman, *Special Ethical Duties of Government Lawyers*, 23 Wyo. Law. 14 (2000) (examining special and different standards applicable to federal, state, local government lawyers)

Montana Advisory Ethics Opinions – selected opinions with special relevance to Government Lawyers – available at: <http://www.montanabar.org/?page=EthicsOpinions>

- Confidentiality of Information/Conflicts of Interest

850820 Public/Private Representation (Court Appointments)

940202 Attorney/Client Relationship (Government Attorney and Government Agency)

001028 Moving from Private Practice to Public Office

880211 Public/Private Representation (Civil Representation and Prosecutorial)

001029 Attorney Elected to Public Office: Disposition of Law Practice

010417 Defending and Prosecuting in Same Jurisdiction

890720 Public/Private Representation (Unrelated Matters)

940330 Public/Private Representation (Former County Attorney - Claim Against County)

910604 Public/Private Representation (Representative of Estate and Criminal Investigation of Decedent)

- Organization as Client

870513 Organization Representation (Who Is the Client?)

940202 Attorney/Client Relationship (Government Attorney and Government Agency)

- Lawyer as Witness/Special Responsibilities of a Prosecutor

960827 Conflict of Interest (Prosecutor Salary Paid From Forfeiture Funds)

011115 Contacting a complaining witness for a civil settlement

050317 Deputy County Attorney as Witness