

# Disqualification of Judges in Criminal Matters

September 19, 1983  
Issued by: Robert D. Lipscher  
Administrative Director

The Supreme Court has established the following guidelines concerning judicial disqualification in criminal cases, where the judge previously served as prosecutor, public defender, or as an assistant in one of those offices:

1. Except in extraordinary circumstances, a judge should disqualify himself or herself in a criminal matter which was pending in his or her office when he or she was the prosecutor or county public defender, whether or not he or she actively participated in the investigation, prosecution, or defense of the case, or had actual knowledge of it.

The reason for this is that as the prior head of either office, the judge would have had the overall responsibility for the conduct of the case.

2. A judge should disqualify himself or herself from hearing a criminal matter involving a defendant who the judge, in his or her previous capacity, had personally prosecuted or defended, or had represented in a civil matter in the past.

The reason for this is that the appearance of judicial impartiality must be preserved.

3. A judge need not disqualify himself or herself from hearing a criminal matter which was pending at the time when the judge served as an assistant prosecutor or assistant public defender, if the judge had no direct involvement with the matter.

As an assistant, the judge would not have been charged with the overall responsibility for the conduct of the case; disqualification is therefore unnecessary absent direct involvement in the investigation, review or trial of the matter in question.

## NOTE

The text has been amended to render it gender-neutral.