



**WILLIAM J. SCOTT**  
ATTORNEY GENERAL  
STATE OF ILLINOIS  
SPRINGFIELD

June 10, 1977

FILE NO. E-1254

COMPATIBILITY OF OFFICES:  
Whether State's Attorney  
May Serve as Legal Con-  
sultant to a Village.

Honorable Richard M. Baner  
State's Attorney  
Woodford County  
Eureka, Illinois 61530

Dear Mr. Baner:

I have your letter wherein you ask whether in addition to serving as Woodford County State's Attorney, you may also serve as a legal consultant to a village located in Woodford County. You explain that your agreement with the village specifically provides that any matter involving Woodford County in any way will not be referred to you. I assume your agreement is to the effect that you are not to render

Honorable Richard M. Baner - 2.

any services to the village that conflict in any way with your duties as State's Attorney. Because of these limitations of the agreement, it is my opinion that you may serve as a legal consultant to the village.

Since Woodford County has less than 30,000 inhabitants, you are not prohibited from engaging in the private practice of law. (Ill. Rev. Stat. 1975, ch. 53, par. 7(f).) However, your private practice of law must not conflict with your duties as State's Attorney. Several previous Attorney General's opinions have advised that the offices of city attorney and State's Attorney are incompatible. (Ill. Att'y. Gen. Op. 1: 1910, p. 484; 1913, p. 285; 1925, p. 159; 1927, p. 150; 1933, p. 85.) These opinions concluded that a person could not properly and fully perform the duties of both State's Attorney and city attorney.

A village attorney is required to represent and advise the village without limitation. This responsibility prevents a person from serving as both village attorney and State's Attorney since there are instances when the duties of the two offices conflict. In contrast to the village

Honorable Richard M. Baner - 3.

attorney, you advise the village on a case by case basis and do not advise the village on matters which relate to your duties as State's Attorney. As a result, the doctrine of incompatibility of offices does not apply to your situation.

It is to be noted that the Committee on Professional Ethics of the Illinois State Bar Association has advised that where a State's Attorney has formed a partnership with another lawyer, the State's Attorney may assist his partner in representing municipal corporations in certain cases as long as the State's Attorney does not fully act as city attorney. (I.S.B.A., Opinion Nos. 309 and 351.) However, in serving as legal consultant you must at all times be mindful of Disciplinary Rule 8-101(A)5, which provides that a "lawyer who holds public office shall not \* \* \* accept private employment with respect to any matter in which he might or could have responsibility as a public official".

Very truly yours,

A T T O R N E Y   G E N E R A L