

# MAINE STATE LEGISLATURE

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STATE OF MAINE  
DEPARTMENT OF THE ATTORNEY GENERAL  
AUGUSTA, MAINE 04333

February 15, 1978

David W. Crook  
Deputy District Attorney  
Kennebec County Courthouse  
Augusta, Maine 04330

Dear Dave:

This responds to your request for an advisory opinion on the question of whether or not it is a conflict of interest for an individual to simultaneously hold the position of part-time Assistant District Attorney and the position of County Commissioner.

We have reviewed the law on the matter, and we conclude that a conflict of interest would exist which makes the two positions incompatible. We find this conflict for two reasons: first, and most important, the County Commissioners, in preparing and reviewing the county budget, make decisions on matters of direct and substantial interest to the District Attorneys in their determinations relating to allocation of support for District Attorney services.\*

Second, an inherent conflict exists in that the District Attorneys and their Assistants, by statute, are legal advisors to and under direction of the County Commissioners for county civil matters. 30 M.R.S.A. § 501. This last conflict, standing alone, might not be determinative as a part-time Assistant could absent himself from any processes relating to legal advice to the County Commissioners.

However, the position of the part-time District Attorney as a Commissioner responsible for determining resource allocations to the District Attorney's Office would appear to place conflicting demands on the individual which are impossible of


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\* Other than attorney salaries which are provided by the State.

resolution - on the one hand, the individual being responsible for the most economic and efficient handling of county tax revenues, and on the other hand, the individual, as part of the District Attorney's Office, seeking to improve resources for what are generally tight funding situations in District Attorney offices. Further, such dual positions could present difficulty for the District Attorney in making presentations to the County Commissioners relating to his budget needs. Therefore, it is our view that the positions of part-time Assistant District Attorney and County Commissioner are incompatible.

I want to emphasize, however, that I do not regard this matter as free from doubt. Our result is reached based on our judgment that it would be difficult to resolve the matter by abstaining from District Attorney budget questions as determinations must be made on competing priorities.

Sincerely,



DONALI G. ALEXANDER  
Deputy Attorney General

DGA/ec