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FILE NO. NP-927

CRIMINAL LAW:  
Deputy Sheriff Cannot  
Serve as Probation  
Officer

Honorable Loren S. Golden  
State's Attorney  
Carroll County  
Courthouse  
Mt. Carroll, Illinois 61053

Dear Mr. Golden:

This responds to your letter requesting my opinion as to whether a deputy sheriff may be a probation officer. For the reasons set forth below I do not believe that an individual serving as a deputy sheriff is qualified to serve as a probation officer. Section 204-2 of the Illinois Criminal Code (Ill. Rev. Stat. 1973, ch. 38, par. 204-2), sets forth the qualifications for the position of probation

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officer. That section provides:

"Any reputable private person who shall be of the age of twenty-five years or upwards, may be appointed a probation officer.

Members of the police force of any city or village, if specially detailed by their commanding officer to the work, may be appointed probation officers in said city or village, \* \* \*." (emphasis added.)

"Private person", as defined by Black's Law Dictionary, Revised 4th Edition, is an individual who is not the incumbent of an office. A deputy sheriff is appointed by the sheriff and he takes and subscribes to an oath or affirmation prior to entering upon his duties. (Ill. Rev. Stat. 1973, ch. 125, pars. 7 - 9.) It is my opinion that a deputy sheriff is not a private person within the meaning of the statute, nor is a deputy sheriff included among the enumerated exceptions.

Under the rule of construction referred to as "expressio unius exclusio alterius", the enumeration of certain things in a statute implies the exclusion of all other things. (People ex rel. Cadell v. Board of Fire and Police Comr's of City of East St. Louis, 345 Ill. App. 415.) While the statute provides in plain and unambiguous terms that law enforcement officials from cities and villages may be probation officers, no such provision is made for

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deputy sheriffs. Since no exception for deputy sheriffs is included in the statute, an exception cannot be read into it. Howlett v. Doglio, 402 Ill. 311; In re Tilliski's Estate, 390 Ill. 273.

In conclusion, the statutory language clearly prohibits an individual who is a deputy sheriff from simultaneously being a probation officer. A deputy sheriff is not a private person nor is he included among the officials expressly allowed to be appointed. Therefore, a deputy sheriff may not serve as a probation officer.

Very truly yours,

A T T O R N E Y   G E N E R A L