

**Note from the Attorney General's Office:**

1957 Op. Att'y Gen. No. 57-1380 was questioned by 2001 Op. Att'y Gen. No. 2001-027.

1380

COMPATIBILITY—VETERANS SERVICE OFFICER AND ASSISTANT PROSECUTING ATTORNEY; INCOMPATIBLE.

SYLLABUS:

The office of veterans service officer and assistant prosecuting attorney of the same county are incompatible and may not be held concurrently by the same person.

Columbus, Ohio, December 4, 1957

Hon. James I. Shaw, Prosecuting Attorney  
Auglaize County, Wapakoneta, Ohio

Dear Sir:

I have before me your request for my opinion reading as follows:

“At the present time I am contemplating appointing an Assistant Prosecuting Attorney who is now the Veterans Service Officer of Auglaize County. This is a temporary office in Auglaize County which the Soldiers and Sailors Relief Com-

mission has passed around among the veteran attorneys for a period of two years only.

My question is: Is the office of Veterans Service Officer compatible with the office of Assistant Prosecuting Attorney? Can the same person serve in both capacities at the same time and draw a salary for each of the offices?"

In Opinion No. 4130, Opinions of the Attorney General for 1948, page 594, it was held:

"The offices of county veterans service officer and prosecuting attorney are incompatible, and may not legally be held by the same person."

The pertinent reasoning for this opinion is found on page 597, where it is stated:

"The prosecuting attorney is the legal adviser to the members of the soldiers' relief commission for the county in which he holds office and for which such members have been appointed."

"It appears very clear that the person who is by law the legal adviser of a board could not be appointed by that board to a responsible position without violating the generally accepted rules as to incompatibility of offices. As such legal adviser it would manifestly be *within his power to advise the board in his own interest* and while he could not be said to hold a direct check or control over himself, as such officer, he would be subjected to the temptation to *mold his advice to further his own interests.*"  
(Emphasis added)

This reasoning is equally applicable to an assistant prosecuting attorney. Therefore, it is my opinion that the office of veterans service officer and assistant prosecuting attorney of the same county are incompatible and may not be held concurrently by the same person.

Respectfully,

WILLIAM SAXBE

Attorney General