

## Town Attorney May Not Act As Defense Counsel

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**T**he case involved defense counsel for two defendants in separate proceedings in village court. The village is located entirely within the limits of the town represented by defense counsel as town attorney.

A lawyer may serve simultaneously as town attorney and as attorney for a village located entirely within the town. But he may not do so if the offices are incompatible. Two offices are incompatible if one office is subordinate to the other or if they are inherently inconsistent. *People ex rel. Ryan v. Green*, 58 NY 295 (1874).

It is incompatible for a town attorney to practice for the defense in a court of a village located entirely within the town which employs him or her. The citizens of a town have a right to expect that an official of the community will not in his private capacity "strive against the laws, customs or institutions he...has sworn...to defend in [his] public persona."

"An attorney employed in an official capacity as a lawyer in a town may not defend clients in the court of a village located entirely within the town which employs him or her as an attorney." *People v. Hoffman*, Village Judge Giannattasio, NYLJ, 02/05/04, page 19.