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FILE NO. S-957

**TRAFFIC RULES AND REGULATIONS:
Multiple Court Appearances
for Traffic Ticket**

Honorable Henry D. Sintzenich
State's Attorney
McDonough County
Macomb, Illinois 61455

Dear Mr. Sintzenich:

This is in response to your letter wherein you have inquired whether police officers of the McDonough County sheriff's department and the Western Illinois University Department of Public Safety are authorized to give notice to "Avoid Multiple Court Appearances" as provided by section 16-106 of the Illinois Vehicle Code. (Ill. Rev. Stat. 1973, ch. 95 1/2, par. 16-106.) That section authorizes police officers of municipalities and park districts outside of Cook County to

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inform an accused traffic violator that his failure to notify the court of his not guilty plea prior to his first court appearance will make the arresting officer's failure to appear good cause for granting a continuance. Section 16-106 provides as follows:

"§ 16-106. Notice to accused concerning multiple court appearances

For offenses committed under the provisions of this Act or the ordinances of any municipality or park district which involve the regulation of the ownership, use or operation of vehicles, the police officers and officials of such municipalities and park districts shall, when issuing a traffic ticket, other citation, or Notice to Appear in lieu of either, in counties other than Cook, also issue written notice to the accused in substantially the following form:

Avoid Multiple Court Appearances

If you intend to plead 'not guilty' to this charge, or if, in addition, you intend to demand a trial by jury, so notify the clerk of the court at least 5 days (excluding Saturdays, Sundays or holidays) before the day set for your appearance. A new appearance date will be set, and arrangements will be made to have the arresting officer present on that new date. Failure to notify the clerk of either your intention to plead 'not guilty' or your

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intention to demand a jury trial, may result in your having to return to court, if you plead 'not guilty' on the date originally set for your court appearance.

Upon timely receipt of notice that the accused intends to plead 'not guilty', the clerk shall set a new appearance date not less than 7 days nor more than 49 days after the original appearance date set by the arresting officer, and notify all parties of the new date and the time for appearance. If the accused fails to notify the clerk as provided above, the arresting officer's failure to appear on the date originally set for appearance may, in counties other than Cook, be considered good cause for a continuance."

Supreme Court Rule 504 (Ill. Rev. Stat. 1973, ch. 110A, par. 504) establishes a policy that an accused traffic violator who pleads not guilty should be given a trial on the date set by the arresting officer; the officer's failure to appear on this date is not usually good cause for granting a continuance. Rule 504 reads as follows:

"504. (Supreme Court Rule 504). Appearance Date

The date set by the arresting officer for a defendant's appearance in court shall be not less than 10 days but within 45 days after the date of the arrest, whenever practicable. It is the policy of this court that an accused who appears and pleads 'not

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guilty' to an alleged traffic or conservation offense should be granted a trial on the merits of the appearance date set by the arresting officer. Except as provided in Rule 505, an arresting officer's failure to appear on that date, in and of itself, shall not normally be considered good cause for a continuance."

The effect of section 16-106 is to qualify the policy of Rule 504. The accused is given the responsibility of notifying the court of his plea of not guilty. Neglect of this responsibility alters the significance of the arresting officer's failure to appear. Rule 504 states that the arresting officer's failure to appear "shall not normally be considered good cause for a continuance". Section 16-106 provides that this failure may "be considered good cause for a continuance" when the accused neglects to give prior notice of his not guilty plea. Supreme Court Rule 505 (Ill. Rev. Stat. 1973, ch. 110A, par. 505) utilizes the same language used in section 16-106 to qualify the policy of Rule 504 when a traffic ticket is issued by the Illinois State Highway Police. The qualification of Rule 504 effected by section 16-106 applies to police officers in municipalities and park districts.

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The determinative issue to your inquiry is whether McDonough County and Western Illinois University are within the meaning of either "municipality" or "park district". Even the most expansive meaning of "park district" could not include a county or a university. Sections 1 and 1.27 of "AN ACT to revise the law in relation to the construction of the statutes" (Ill. Rev. Stat. 1973, ch. 131, pars. 1 and 1.27) provide that "municipalities" has the meaning established in section 1 of article VII of the Illinois Constitution of 1970 unless that meaning is inconsistent with the manifest intent of the General Assembly or repugnant to the context of the statute being construed. Section 1 of article VII of the Illinois Constitution provides in pertinent part:

"'Municipalities' means cities, villages, and incorporated towns. * * *"

There is no intention manifest in section 16-106 that demands expansion of the constitutional definition of "municipalities", neither does the context of section 16-106 necessitate inclusion of counties and universities within the

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definition of "municipalities". There is no compelling reason to enlarge the definition in section 1 of article VII. As a result, I am required to conclude that the procedure to "Avoid Multiple Court Appearances" provided in section 16-106 applies only when a traffic ticket or other citation has been issued by a police officer of a city, village, incorporated town, or park district.

Therefore, it is my opinion that police officers of the McDonough County sheriff's department and the Western Illinois University Department of Public Safety are not authorized to give notice to "Avoid Multiple Court Appearances" as provided by section 16-106 of the Illinois Vehicle Code.

Very truly yours,

A T T O R N E Y G E N E R A L