



WILLIAM J. SCOTT

ATTORNEY GENERAL
STATE OF ILLINOIS
500 SOUTH SECOND STREET
SPRINGFIELD

November 26, 1974

FILE NO. S-839

COUNTIES:

Gift of County Funds to
Not-For-Profit Corporation

Honorable Richard S. Simpson
State's Attorney
Lawrence County
Court House
Lawrenceville, Illinois 62439

Dear Mr. Simpson:

I have your letter of November 15, 1974, wherein you inquire as to whether Lawrence County Board may make a grant of funds to Cra-Wa-La Volunteers in Probation, Inc., a private, not-for-profit corporation specializing in the delivery of volunteer probation services to persons placed on probation in Crawford, Wabash and Lawrence Counties. It is my understanding that the Lawrence County Board wants to make an outright grant of funds to Cra-Wa-La Volunteers

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in Probation, Inc. without the corporation being in any way contractually obligated to perform any probation services for Lawrence County.

Lawrence County is not a home rule unit. There are a small number of specific, constitutional powers that have been directly granted to counties that are not home rule units. (See, Ill. Const., art. VII, sec. 7.) Generally speaking, however, counties which are not home rule units have only those powers granted to them by law, (Ill. Const., art. VII, sec. 7) plus those powers that may be implied as necessary to carry out specific statutory powers. Goodwine v. County of Vermilion, 271 Ill. 126; Heidenreich v. Ronske, 26 Ill. 2d 360.

The County of Lawrence holds property in trust for the benefit of the inhabitants of the county. As was said in Sherlock v. Village of Winnetka, 59 Ill. 389, at page 398:

"[T]he corporation is bound to administer such property faithfully, honestly and justly, and if it is guilty of a breach of trust by disposing of its valuable property, without any, or a nominal, consideration, it will be regarded in the same light as if it were the representative

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of a private individual, or of a private corporation; that the mere fact in such a case, that the forms of legislation are used in committing such breach of trust, will make no difference in the character of the act. It will not be, in any sense, the exercise of a political power delegated for public purposes, and the privilege of exemption from judicial interference terminates where legislative action ends."

A grant or donation of county funds to an organization such as Cra-Wa-La Volunteers in Probation, Inc. is not authorized by law. Therefore, I am of the opinion that Lawrence County may not make an outright grant of funds to Cra-Wa-La Volunteers in Probation, Inc.

Very truly yours,

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