

1979 WL 42949 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 20, 1979

*1 Joseph P. Mizzell, Jr., Esquire
Attorney at Law
370 St. Paul Street
Orangeburg, South Carolina 29115

Dear Mr. Mizzell:

You have asked the opinion of this Office concerning whether your holding the position of Assistant Public Defender for Orangeburg County would present any conflicts with your running for or holding a position on the City Council of the City of Orangeburg.

Attorney General McLeod has issued two previous opinions, which are attached hereto, on the question of whether public defenders are officers within the meaning of the provision prohibiting dual office holding in [Article XVII, § 1A of the South Carolina Constitution](#). Both of these provisions conclude that they are not offices within the meaning of that provision.

Our research has not disclosed any conflicts relating to the circumstances of your situation in Title 5, Municipal Corporations, Title 7, Elections, or Title 17, Chapter 3, Defense of Indigents, of the Code of Laws, 1976, as amended. However, as a precautionary measure, we would suggest that you confer with the Defender Corporation of Orangeburg County concerning any internal rules or regulations on political activity, and with the State Ethics Commission concerning any possible conflicts under the statutes they are responsible for interpreting. See [§ 8-13-120, Code](#), *supra*. The State Ethics Commission is located at 1026 Sumter Street, Room 116, Post Office Box 1627, Columbia, South Carolina 29211, and its telephone number is 758-7408.

Because as Assistant Public Defender you may be representing persons who were arrested for and charged with criminal offenses by police officers who are city employees, it may be advisable to consider requesting an advisory opinion from the Board of Commissioners on Grievances and Discipline concerning any possible ramifications related to the Code of Professional Responsibility.

With personal regards,

James M. Holly
State Attorney

1979 WL 42949 (S.C.A.G.)

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.