

1972 S.C. Op. Atty. Gen. 150 (S.C.A.G.), 1972 S.C. Op. Atty. Gen. No. 3324, 1972 WL 20463

Office of the Attorney General

State of South Carolina

Opinion No. 3324

June 6, 1972

***1 Re: Town of Swansea, South Carolina**

Mr. George S. Nicholson, Jr.
Messrs. Jones, Long, Barfield & Bouknight
Attorneys at Law
Post Office Box 488
Lexington, South Carolina 29072

Dear Mr. Nicholson:

Thank you for your letter of June 2, 1972, inquiring if law enforcement officers of a municipality such as the Town of Swanses may hold commissions as Special Deputies for the Lexington County Sheriff's Department so as to be able to render assistance to the Sheriff's Department on call.

In my opinion, this presents two difficult problems: First, the matter of dual officeholding. See [Edge v. Town of Cayce, 187 S.C. 172, 197 S.E. 216](#), which held the position of Chief of Police to be an office. This is the least important of the two problems which I see but, nevertheless, does present some difficulty. Second, the lack of authority for a Sheriff to appoint 'Special Deputies.' In a previous opinion, this Office has considered that a Sheriff's actions in appointing Special Deputies did not have the effect of vesting these Deputies with real authority. The statutory method for appointing Deputies must be followed and the authorizations given to the Sheriff to appoint Deputies must similarly be strictly followed. The same conclusions have been reached with respect to appointment of more than one constable by a magistrate. In those cases we advised that the appointments must be made in conformity with the legislative grant to make appointments, such as by special designation of the number to be appointed or the allocation of funds for more than one.

The problem you have is a difficult one and one which has been incurred more and more frequently. Just yesterday at the Municipal Meeting in Myrtle Beach, I suggested that serious consideration be given to amending the statutes to provide for intercooperation and interchange of police authority between towns, as well as between such agencies as the Sheriff's Department. This is the most reasonable form of relief which I believe can be obtained without leaving some room for legal doubt as to sufficiency. A mere statute authorizing city police to aid other police in enforcing the law when called upon would be sufficient, but some thought must also be given to housekeeping details such as who will pay Workmen's Compensation liability, etc.

I hope that the foregoing is of some assistance in the solution of your problem.

With best wishes,
Cordially,

Daniel R. McLeod
Attorney General

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