

1975 WL 29448 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 30, 1975

***1 Re: Can an auxiliary police force be created in Union, S. C.?**

Mr. Leroy Farr
City Councilman for Police Department
Union Police Department
Union, South Carolina 29379

Dear Sir:

In reply to your inquiry concerning whether an auxiliary police force is possible in Union, it seems that § 47-232 Code of Laws of South Carolina, as amended, does not provide for any such auxiliary police force. Section 47-232 provides for local creation of a police force of 'as many policemen, regular or special, as may be necessary . . .' In Op.Atty.Gen. No. 2424, p. 79 (1968), the opinion was expressed that the meaning of the phrase 'special policeman' could not be construed to apply to an auxiliary force:

' . . . The meaning of 'special police' is not really apparent, and it is possible that the Legislature intended an auxiliary or reserve force by this term, but such an interpretation is unlikely . . . It is the opinion of this office that there is no provision in the South Carolina law for an auxiliary police force as such if, by that term, you mean a 'reserve' force to be called into active regular duty as a group or individually, or if you mean individuals at large who possess the authority to act as policemen at their discretion . . . '

Thus it seems that before a person can become a regular or 'special' policeman, he or she must be appointed by the proper authority. It is the opinion of this office as expressed in Op.Atty.Gen. No. 2294, p. 114 (1967), that such proper authority means that the city or town council may appoint or elect as many policemen as necessary and that a police chief is not authorized to appoint regular or special police unless such power has been delegated to him specifically by ordinance, or unless there is specific statutory authority therefore under an act providing for some type of municipal police commission.

Therefore, the city council of Union could appoint these persons as policemen, regular or special, if the council decides that to do so is necessary for the proper government of Union and may fix salaries and prescribe duties. § 47-232 Code of Laws of South Carolina, as amended. But these appointments would have to be made by the council and the appointees could not serve as a residual force to be called into active duty as a group nor could such appointees maintain their position at large with power to act as policemen at their discretion. Op.Atty.Gen. No. 2424, p. 79 (1968). Op.Atty.Gen. No. 2294, p. 114 (1967).

If we can be of any further help, please let us know.

Very truly yours,

Wally Smith
Law Clerk

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