

1973 S.C. Op. Atty. Gen. 28 (S.C.A.G.), 1973 S.C. Op. Atty. Gen. No. 3455, 1973 WL 20919

Office of the Attorney General

State of South Carolina

Opinion No. 3455

January 15, 1973

*1 Mr. Donald G. McLeese
Commissioner
Commission on Narcotics and Controlled Substances
Suite 201, Kittrell Center
2711 Middleburg Drive
Columbia, South Carolina 29204

Dear Mr. McLeese:

Thank you for your letter of January 11 inquiring as follows:

‘There is a desire for the City of Spartanburg narcotics officers to have countywide arrest power. However, we have been informed that if the City policeman is deputized, he is then in violation of the statute forbidding dual officeholding. At the same time, if he is appointed as a noncompensated State constable, he jeopardizes his civil service status.’

In reply thereto, I advise that it is the opinion of this Office that a city policeman is dual officeholding when he is appointed also as a non-compensated State constable. The law in this respect is, however, very unclear, and we have attempted to procure an adjudication from the State Supreme Court because it is constantly arising. That Court did not pass upon the issue because the city policeman in that instance had not been appointed as a constable without pay, but the Governor had reviewed the appointment on the ground that the dual officeholding provision of the Constitution would thereby be violated.

Even if dual officeholding is created by the same person holding both positions, his acts and doings as a peace officer are not thereby invalidated. I have no information as to how an individual's civil service status would be affected by his dual capacity.

It is probable that a statutory change would clarify the matter, as the problem exists Statewide.

Very truly yours,

Daniel R. McLeod
Attorney General

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