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OPINION 03-16

**60 - Law Officers - Authority
& Jurisdiction
R.S. 14:112
R.S. 122.2**

Mayor Rodney Jordan
Village of Florien
P.O. Box 68
Florien, LA 71429

Dear Mayor Jordan:

The Mayor, having no authority to issue an individual a police department badge who has not been hired as a police officer the individual using the badge may be in violation of false personation. The mayor may issue an honorary commission with approval of the Board of Aldermen.

This office is in receipt of your request for an opinion of the Attorney General in regard to issuance of a police department badge to someone who is not an officer. You ask whether a Chief of Police in a Lawrason Act community can issue a badge and authorize the displaying of that badge by a person who has not been hired or considered for hiring as a policeman by the Mayor and Board of Aldermen.

We find no authority for the issuance of a police department badge to a person who is not hired as a policeman for the Village, and as observed by this office in Atty. Gen. Op. 89-159, "A Justice of the Peace is a judicial officer. He is not entitled incidental to that office to act as a law enforcement officer. Accordingly, the carrying of a badge is prohibited by R.S. 14:112 (False Personation)."

The latter statute provides that false personation is performance of an act with intent to defraud by "impersonating any public officer, * * * having special authority by law to perform an act affecting the rights or interests of another, or assuming, without authority, of any uniform or badge by which such officer or person is lawfully distinguished". (Emphasis added.)

Similarly, R.S. 14:122.2, false personation of a peace officer, sets forth that false personation of a peace officer with the intent of defraud includes "impersonating any peace officer or assuming, without authority, any uniform or badge by which a peace officer is lawfully distinguished".

Moreover, while this office has repeatedly recognized that the police chief has no authority to hire and fire police personnel, he does make recommendations to the mayor and board of aldermen for appointments, disciplinary action, and dismissals of police officers.

However, an individual who has an honorary commission from the Chief of Police does not have any law enforcement authority, no police department duties, and cannot be considered as police personnel and does not need the approval of the Board of Aldermen for the commission from the Chief of Police inasmuch as the elected chief of police is the

Mayor Rodney Jordan
Opinion 03-16
Page 2

final authority in the day-to-day operation of his office. Therefore, the issuance of the commission is an act in the day-to-day operation of the police department which does not need approval of the Board of Aldermen.

Therefore, if the individual in question has a police department badge which the Chief of Police has no authority to issue, the individual could be violating the criminal statute of false personation of an officer which carries a penalty of not more than one thousand dollars or imprisoned with or without hard labor for not more than two years, or both. R.S. 14:112 defines false personation as including the assuming without authority of any badge by which a officer is distinguished with intent to defraud, and R.S. 14:112.1 also covers false personation of any peace officer or assuming without authority any badge by which a peace office is lawfully distinguished with intent to injure, defraud or secure any special privilege or advantage.

Accordingly, we hope this sufficiently answers your inquiry, but if we can be of further assistance, do not hesitate to contact us.

Very truly yours,

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BY: Barbara B. Rutledge / *BR*
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