

November 9, 2005
OPINION 05-0328

Alderman Stanley Washington
P. O. Box 10
Maringouin, LA 70757

78 Dual Officeholding
R.S. 42:66(M)
Chief of police of Town of Maringouin may hold office of deputy sheriff, as the town has a population of less than five thousand.

Dear Alderman Washington:

You ask if the elected chief of police of the Town of Maringouin may also be a full-time deputy sheriff with the Iberville Parish Sheriff's Department.

The Dual Officeholding and Dual Employment Law, R.S. 42:61, et seq., governs our response. R.S. 42:63(D) pertains to the holding of prohibited positions and states in pertinent part:

D. No person holding an elective office in a political subdivision of this state shall at the same time hold another elective office or full-time appointive office in the government of this state or in the government of a political subdivision thereof. No such person shall hold at the same time employment in the government of this state, or in the same political subdivision in which he holds an elective office.....

The position of deputy sheriff is considered an appointive office under R.S. 42:62(2) because it is an "office in any branch of government... which is specifically established or specifically authorized by the...laws of this state...and which is filled by appointment... by an elected...public official." The position of deputy sheriff is specifically provided or authorized by law, as R.S. 33:1433 provides in part:

A.(1) The sheriff of each parish and the civil and criminal sheriffs of the parish of Orleans may appoint as many deputies as necessary, but not more than authorized by law.

(2) In all parishes except the parish of Orleans, the deputies shall, before entering on their duties, take the oath of office. The appointment and oath must be entered on the records of the court.

The chief of police of the Town of Maringouin is an elected public official.

While R.S. 42:63(D) quoted above would generally prohibit an elected police chief from concurrently holding a full-time appointed position of deputy sheriff, there is an exception in the law applicable in this case. R.S. 42:66(M) states:

M. Nothing in this Part shall be construed to prohibit a chief of police of a municipality with the population of less than five thousand according to the 1990 federal decennial census from holding the office of deputy sheriff.

The Town of Maringouin has a population of less than five thousand. Thus, the elected chief of police of the Town of Maringouin is not prohibited from holding the offices of elected chief of police and deputy sheriff.

We hope the foregoing is helpful to you. Should you have other questions in which we may provide assistance, please contact this office.

Very truly yours,

CHARLES C. FOTI, JR.
ATTORNEY GENERAL

BY:

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL

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Date Received:
Date Released: November 9, 2005

KERRY L. KILPATRICK
ASSISTANT ATTORNEY GENERAL