



August 31, 1964

Honorable Daniel V. O'Brien  
Prosecuting Attorney  
St. Louis County  
Courthouse  
Clayton, Missouri 63105

Dear Mr. O'Brien:

In your letter of August 21, 1964, requesting an opinion of this office you include a letter from Richard F. Provaznik, Special City Counsel of the City of Ballwin, Missouri.

In Mr. Provaznik's letter he states that under the authority of Section 79.050, RSMo, the elective office of marshal has been abolished and a chief of police appointed.

The questions propounded are as follows:

1. Can the board of aldermen in a city of the fourth class validly pass an ordinance creating a board of police commissioners? Said board would appoint and remove the chief of police, set qualifications for police officers, select and employ police officers in numbers set by the board of aldermen, adopt rules and regulations for the police department and generally supervise and control the police department.
2. If there is no valid basis for a board of police commissioners, does

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the chief of police have the sole authority and responsibility to maintain, regulate and supervise the police department?

3. Does the chief of police regulate and supervise the police department under Section 79.050, which section provides that the chief of police shall perform all of the duties of the marshal, or does the supervision lie with the mayor and/or the board of aldermen?

This office discussed this identical question in a letter sent to you on July 22, 1964. The only difference in the set of facts presented then as under discussion now was that the city in the first instance had retained its city marshal.

Section 85.610, RSMo 1959, provides that the marshal in cities of the fourth class shall be the chief of police, therefore, the titles are interchangeable.

We are enclosing a copy of the letter of July 22, 1964, which completely answers all of your questions. You have only to substitute the title, "Chief of Police" for "Marshal", as used in our previous letter. Therefore, as pointed out in the attached letter:

1. The ordinance providing for a board of police commissioners would be invalid;
2. The chief of police would supervise and regulate the police department; and
3. Section 85.620 provides that police officers "may be appointed in such numbers, for such times and in such manner" as may be prescribed by ordinance, but there is no direct statement in the statutes as to who may supervise the chief of police.

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As stated in our previous letter of July 22, 1964, it was the apparent intention of the Legislature to make the chief of police the chief law enforcement officer of the city.

Yours very truly,

THOMAS F. EAGLETON  
Attorney General

OHS/fh

Enclosure *Sp. Inv. # 205, 7-22-64, O'Brien*