

CITY MARSHAL:
ELECTION:

A city marshal of a city of the fourth class may perform the duties enjoined upon him in the conduct of a city election although he is a candidate for re-election at such an election.

April 7, 1960



Honorable F. Neil Aschemeyer
918 Security Building
319 North Fourth Street
St. Louis 2, Missouri

Dear Mr. Aschemeyer:

Your request dated February 17, 1960, for a further opinion regarding the matter of a city marshal, who is running for re-election, taking any part in the conduct in such election, reads:

"I am very appreciative of your letter of February 15, 1960, enclosing an opinion rendered by your department on October 27, 1952, to Honorable Homer F. Williams, Prosecuting Attorney of Bollinger County, with regard to a candidate serving as election judge. I do, however, desire a specific opinion with reference to the second question which I raise, namely: Whether a city marshal running for re-election may take part in the conduct of such election as provided for by Sections 79.030, 111.050 and 129.870, RSMo 1949."

We would first direct attention to Section 79.030, VAMS, a portion of which reads:

"* * * All duties specified in the state election laws to be performed by the constable or sheriff shall be performed by the city marshal in the city elections; * * *"

Section 111.050, VAMS, reads:

"The sheriff shall attend the elections in his county and perform such duties as are enjoined on him by law, under the direction of the judges."

By Section 129.870, VAMS, we see that the city marshal is an election official at city elections. That section reads:

"As used in section 129.860 the words 'election officers,' 'election officials,' mean any precinct

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election judge or clerk, registrar of voters, county clerk, judge of county court, election commissioner, assistant election commissioner, deputy election commissioner, inspector of elections, deputy county clerk, or other assistant, employee, clerk or deputy employed in the office of the county clerk or board of election commissioners, township constable, member of board of police commissioners, or city marshal or police officer when on duty taking part in the conduct of any primary, convention, election, registration or revision of voters as required by the provisions of sections 111.420, 111.430, 111.450, 111.550, 111.560, 111.580, 111.780, and 129.850 to 129.890, RSMo 1949."

We find no prohibition, positive or implied, against either a sheriff or a city marshal from performing the duties which are laid upon him with respect to elections even though he is a candidate for re-election at such an election. In the absence of such prohibition we believe that the city marshal may so act.

CONCLUSION

It is the opinion of this department that a city marshal of a city of the fourth class may perform the duties enjoined upon him in the conduct of a city election although he is a candidate for re-election at such an election.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Hugh P. Williamson.

Yours very truly,

JOHN M. DALTON
Attorney General
