

March 3, 1964



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

Dear Mr. O'Brien:

This is in answer to your letter of recent date regarding the City of Vinita Park and inquiring whether the ordinance of such city setting a salary for chief of police separate from that of the elected marshal of such city is a valid ordinance.

Reference is made to the opinion of this office rendered under date of May 24, 1963, to John L. Fitzgerald, a copy of which opinion we are enclosing. We believe that such opinion largely rules the question regarding Vinita Park. We call your attention to the provision of Section 71.010, which provides that all municipal corporations in this state having authority to pass ordinances upon which there is a general law of the state, unless otherwise prescribed or authorized by some special provision of its charter, shall pass such ordinances only as are in conformity with the state law upon the same subject.

It is our view that where there is an elected city marshal in a city of the fourth class that he is by virtue of such office the chief of police of such city as is held in the opinion of May 24, 1963, and that there cannot be a separate office of chief of police in such city. The opinion of May 24, 1963, held that the marshal of such city elected in 1963 could not receive

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during his term of office an increase in salary as chief of police of such city because of the provision of the Constitution and the statutes that the compensation of no officer should be increased during his term of office. Such opinion held that the single office of marshal and chief of police was involved, and, therefore, any increase in salary would have to be for the officer occupying both offices.

Therefore, we rule that the marshal of a fourth class city is the chief of police by virtue of holding the office of marshal, and that the salary fixed as marshal is the only salary that can be paid to such officer. In view of this ruling it is our view that the ordinances of Vinita Park, authorizing a separate compensation for the chief of police, are invalid.

Yours very truly,

THOMAS F. EAGLETON
Attorney General

GBB/fh