OPINION NO. 70-044

Syllabus:

A private policeman, commissioned in accordance with Section 737.05, Revised Code, is exempt from the licensing requirements of Chapter 4749, Revised Code.

To: J. Gordon Peltier, Director, Dept. of Commerce, Columbus, Ohio
By: Paul W. Brown, Attorney General, April 15, 1970

I have before me your request for my opinion as to whether or not a private policeman, commissioned pursuant to Section 737.05, Revised Code, is exempt from the licensing requirements of Chapter 4749, Revised Code.

Section 737.05, supra, provides that the safety director of a municipal corporation may commission private policeman.

Pursuant to the opinion of my predecessor in Opinion No.

66-179, Opinions of the Attorney General for 1966, a private police officer, referred to in the last paragraph of Section 737.05, supra, derives his authority from the ordinances of the appointing municipality and from the laws of the State, and a privately employed policeman has the same powers and jurisdiction as given other police officers by state law. I concur in that opinion. It, therefore, is apparent that special police officers are considered to be law enforcement officers. Our courts have recognized this fact, and have held that such private policemen are duly commissioned police officers. Neapolitan v. U.S. Steel Corporation, 77 Ohio Law Abs., 376 (1956).

Section 4749.08 (A), Revised Code, specifically provides that no private investigator or registered employee who engages in private investigating activities as provided in Section 4749.01 (B), supra, shall be considered a law enforcement officer for any purpose. Section 4749.08 (C), supra, further provides that the term "private investigator" does not include:

" * * * * * * * * *

> "(5) An employee in the regular course of his employment, engaged in investigating matters pertinent to the business of his employer or protecting property in the possession of his employer, provided such employee is not employed by, associated with, or acting for or on behalf of any private investigator."

It appears that by enacting Chapter 4749, supra, the legislature in no way intended to limit the scope of authority of special police officers appointed under the provisions of Section 737.05, supra.

It, therefore, is my opinion and you are advised that a private policeman, commissioned in accordance with Section 737.05, Revised Code, is exempt from the licensing requirements of Chapter 4749, Revised Code.