

Note from the Attorney General's Office:

1967 Op. Att'y Gen. No. 67-015 was modified by
1984 Op. Att'y Gen. No. 84-008.

OPINION NO. 67-015**Syllabus:**

1. A municipality may confer upon its auxiliary police such powers as are necessary under the circumstances to discharge the duties imposed upon them.

2. The determination of whether the members of an auxiliary police unit must be certified by the Executive Director of the Ohio Peace Officer Training Council, as required by Section 109.77, Revised Code, is a factual one to be made by comparing the municipal legislation creating the unit and establishing the unit's members' duties and authority, with the Rules and Regulations of the Ohio Peace Officer Training Council.

3. A private policeman, appointed pursuant to Section 737.05, Revised Code, on a temporary basis or for a probationary term or on other than a permanent basis must receive, within one year from the time of his appointment, a certificate of his satisfactory completion of the basic course of peace

officer training. (Opinion No. 179, Opinions of the Attorney General for 1966, approved and followed.)

To: John T. Corrigan, Cuyahoga County Pros. Atty., Cleveland, Ohio
By: William B. Saxbe, Attorney General, January 27, 1967

I have received your request for my opinion wherein you pose the following questions:

"(1) Can auxiliary police (part-time) be given arrest powers while supervising athletic events and in general, doing Sunday traffic duty?

"(2) What effect does recent legislative changes have regarding police training school and the auxiliary police force?

"(3) How do recent legislative changes regarding part-time police training effect permissive powers which may be granted to auxiliary police as set forth in Opinion 162, dated April 22, 1963?"

Municipalities operating under a charter form of government may establish auxiliary units in the municipal police department if their charter so provides. Opinion No. 162, Opinions of the Attorney General for 1963, page 262. Cities and villages operating under a statutory form of government may establish auxiliary units in the municipal police department pursuant to the authority of Section 737.051, Revised Code, and Section 737.15, Revised Code, respectively. In the case of charter municipalities, the charter provision authorizing the creation of an auxiliary police unit, or an ordinance properly enacted pursuant to the authority of a charter, designates the extent of authority of the auxiliary police. Municipalities operating under a statutory form of government may designate the authority conferred upon auxiliary police in the ordinance creating the auxiliary police unit. I find nothing in the Revised Code which in my opinion limits the authority with which a municipality may invest its auxiliary police, subject however to the limitations upon the authority of municipal police generally. A municipality may confer upon its auxiliary police such powers as are necessary under the circumstances to discharge the duties imposed upon them.

Your second question is concerned with the effect of recent legislation regarding peace officer training upon an auxiliary police unit. In 1965, the General Assembly enacted Sections 109.71 to 109.77, inclusive, of the Revised Code. The enactment established the Ohio Peace Officer Training Council within the office of the Attorney General and authorized the Ohio Peace Officer Training Council to establish minimum standards of training for peace officer personnel. The Ohio Peace Officer Training Council, pursuant to the authority granted by Section 109.73, Revised Code, recommended to the Attorney General certain rules and regulations which

were thereafter adopted in conformity to the requirements of the Administrative Procedure Act, Chapter 119, Revised Code. The rules and regulations as adopted provided minimum standards of training required before a person may be appointed as a peace officer within the State of Ohio. The term "peace officer" is defined in Rule number PC-1-02 as follows:

"(E) The term 'Peace Officer' means a member of a police force or other organization, employed or commissioned by a township, a county, or municipal corporation, who is responsible for the enforcement of general criminal laws of the state, and empowered to carry firearms, but shall not include any person serving as such solely by virtue of his occupying other office or position, nor shall such term include a sheriff, or any person having an equivalent title who is appointed or employed by a county to exercise equivalent supervisory authority."

If the members of an auxiliary police unit are commissioned by a municipal corporation, responsible for the enforcement of general criminal laws of the state, and are empowered to carry firearms, they come within the definition of "peace officer" for purpose of compliance with Section 109.71 to 109.77, Revised Code, and the Rules and Regulations of the Ohio Peace Officer Training Council. The determination of whether the members of a particular auxiliary unit must fulfill the training requirements of the Ohio Peace Officers Training Council is a matter of fact to be determined by reference to the legislation creating that particular auxiliary unit.

Your third question refers to Opinion No. 162, supra. That opinion dealt with the power of a municipality "to enter into a contract, on a temporary basis, for the hire of private police investigators as an adjunct to the regular police department," and an amendment of that opinion discloses that the officers referred to were those appointed pursuant to Section 737.05, Revised Code. I considered the question of whether Section 109.77, Revised Code, requires the training of special police officers, appointed pursuant to Section 737.05, supra, in Opinion No. 179, Opinions of the Attorney General for 1966, and held in paragraph five of the syllabus that:

"A private policeman who is appointed on a temporary basis or for a probationary term or on other than a permanent basis must receive, within one year from the time of his appointment, a certificate of his satisfactory completion of the basic course of peace officer training. Such time limit may be extended by the Director, or such time limit may be lessened by the appointing subdivision, in accordance with the provisions of Rule No. P.C. 1-11, of the peace officer training council."

I approve and follow Opinion No. 179, supra, herein.

Therefore, it is my opinion and you are hereby advised that:

1. A municipality may confer upon its auxiliary police such powers as are necessary under the circumstances to discharge the duties imposed upon them.

2. The determination of whether the members of an auxiliary police unit must be certified by the Executive Director of the Ohio Peace Officer Training Council, as required by Section 109.77, Revised Code, is a factual one to be made by comparing the municipal legislation creating the unit and establishing the unit's members' duties and authority, with the Rules and Regulations of the Ohio Peace Officer Training Council.

3. A private policeman, appointed pursuant to Section 737.05, Revised Code, on a temporary basis or for a probationary term or on other than a permanent basis must receive, within one year from the time of his appointment, a certificate of his satisfactory completion of the basic course of peace officer training. (Opinion No. 179, Opinions of the Attorney General for 1966, approved and followed.)