

The MUNICIPAL POLICE LAW Annotated

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PART I MUNICIPAL POLICE

(Being Article XI, Chapter 57, Title IX, Book III of the Administrative Code, as amended up to June 26 1948.)

SEC. 2258. *Constitution of police force of municipality.*—In each municipality there shall be a chief of police and such number of policemen as the council, with the approval of the provincial board, shall determine.

All members of said force shall be peace officers. It shall be their duty to preserve order and exercise vigilance in the prevention of public offenses. They shall exercise the general power to make arrests and seizures according to law.

ORGANIZATION

Nature of police system and functions.—The police system is not a matter of local self-government, but a state affair. State laws creating a police system rest upon the well settled doctrine that the protection of life, liberty and property and the preservation of the public peace and order in every part, division and subdivision of the state, is a governmental obligation which belongs to the state and not

PRONUNCIAMENTOS

President Elpidio Quirino—*I'm going to watch every provincial official. As long as you are doing your duty and not enhancing your political interests, I will back you up. The minute you allow politics to come in, sacrificing the peace and order program, I will act swiftly and oust you.*

Jose Rizal—*Certainly the vices of a government are fatal to it and cause its death, but they also kill the society in whose womb they are developed. With an immoral government goes a demoralized people; with a conscienceless administration go greedy, servile citizens; in the towns, bandits; and thieves in the mountain! As the master, so is the slave! As the government, so is the country!*

Manuel L. Quezon—*You may play politics with some people, but you cannot play politics with everybody. Your best politics is justice and efficiency in the service.*

to the local government.¹ Hence it has been provided in the Constitution that the Government shall organize and maintain a national police force to preserve public order and enforce the law.² But the maintenance of a police force is a proper power which may be constitutionally committed to a municipal corporation, and, in harmony with our governmental system, it has been so committed. In theory, policemen are state officers, but in fact their chief function is to aid in enforcing the local police regulations, mainly of municipal origin, and they are paid for such service not by the state, but out of the municipal treasury, from the contributions of the local taxpayers, for strictly "municipal purposes." However, consistent with its plenary powers as to state affairs unless restricted by the constitution, the state may take from the municipal corporation its charter power respecting the control of the police, and order the transfer of the property of the department to the new department created by the state, since such charter leaves the property still vested in the public.³

Police Law

Thus in 1936, Commonwealth Act No. 88 converted the local police into State Police but the same force was later returned to the control of the municipalities and cities by Commonwealth Act No. 343, subject to such regulations governing appointment, organization, and administration as the corresponding head of department,⁴ with the approval of the President may prescribe,⁵ among which are those provided in Executive Order No. 175, series of 1938.

Determination of strength of force.—It is the mandatory duty of the municipal council to establish and maintain an efficient police department.⁶ The determination of the strength of the force is restricted by the limitation upon the amount expendable for salaries and wages imposed by section 2299 of the Administrative Code and by Republic Act No. 160 which does not provide for the positions of lieutenant in second class municipalities, sergeant in third class municipalities, and either position in fourth as well as fifth class municipalities. Where the local funds are insufficient to bear the expense, the provincial board may make appropriations from the provincial general funds for the organization, equipment and maintenance of the force.⁷

Extent of intervention of provincial board.—In providing that the municipal council with the approval of the provincial board, shall determine the number of policemen in each municipality, the Legislature did not intend to make the provincial board a co-legislative body with the municipal council in the determination of the number of policemen in a municipality, but simply to provide a check against an undue use of the power vested in the municipal council. So, in deciding an appeal by a municipal council from the disapproval by the provincial board of the resolution of said council suppressing the position of sergeant of police, the Chief

of the Executive Bureau (now Secretary of the Interior) could legally sustain the council.⁸

Secret service force.—Municipalities are not authorized to create a secret service force in their police service unlike in the case of cities where their charters so provide. However, special policemen may be employed subject to the provisions of Executive Order No. 175, series of 1938.⁹

Rural policemen.—The municipal police force contemplated in the Revised Administrative Code refers only to members, regular or special, who have been duly appointed pursuant to Section 2259 of the same code and Executive Order No. 175, series 1938. Rural policemen are those civic-spirited barrio residents who are designated either by a municipal councilor or barrio lieutenant to assist peace officers in the maintenance of peace and order in their respective localities. They also serve as town criers in their respective localities and to act as orderlies to the rural council when it holds sessions. Their designation as such rural policemen carries with it no police authority of any kind. They are not entitled to wear the policemen's badges. On the query whether rural police falls within the purview of the municipal police as defined in the Revised Administrative Code, the answer is in the negative.¹⁰

Abolition of position.—A municipal council has no authority to abolish the position of chief of police.¹¹ Neither can it abolish the position of lieutenant of police in first class municipalities, sergeant in first and second class municipalities, and corporal in first, second and third class municipalities, inasmuch as these positions are provided for in Republic Act No. 160. The council may, however, abolish the position of policeman with the approval of the President of the Philippines.¹²

1. See Sec. 203, Vol. I, McQuillin, Mun. Corp. 2d Rev. Ed.
2. Sec. 9, Art. XIV, Constitution of the Philippines.
3. Sec. 203, Vol. I, McQuillin, Mun. Corp., 2d Rev. Ed.
4. Sec. Int., Ex. Ord. 176, s. 1939.
5. Sec. 6, C.A. 343.
6. Sec. 2242(d), Adm. Code.
7. Sec. 2105(c), id.
8. Op. Atty. Gen, Oct. 4, 1924.

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Nature of office of policeman.—A policeman is not an authority as defined in the Penal Code, but an agent of an authority.¹³ Neither is he an administrative or judicial officer in the sense which that word is used in Article 326 of the Penal Code, regarding the crime of *'acusación o denuncia falsa'*.¹⁴ Therefore, one who makes complaint to a policeman, granting that it be false, is not liable to prosecution under said

article 326.¹⁵

A member of a police force is subordinate to that of a member of the municipal council. The position cannot consequently be occupied by a vice-mayor or by any councilor for "it is very probable that one person could not faithfully and impartially perform the duties of both offices, as they are inconsistent and repugnant to each other."¹⁶

[To be continued]

9. 2nd Ind. Nov. 20, 1946, of Sec. of Int. to Prov. Gov. of Capiz.
10. Op. Staff Judge Advocate, PC, Oct. 23, 1948 and Dec. 9, 1948.
11. Op. Atty. Gen., September 28, 1922.
12. Par. 18, Executive Order 175, s. 1938.
13. U. S. v. Taylor, 6 Phil., 162.
14. Viada, vol. 2, 476.
15. U.S. v. Quiroga, 7, Phil., 390.
16. I. Op. Atty. Gen. p. 555.

Strength

order under the present circumstances is a strong domestic policy for the preservation of our ideals and institutions and for the permanence of peace and prosperity in this our God-given land.

As students and alumni of this university, we are in a peculiar position to recognize our special responsibility

arising from our knowledge, our capacity and our opportunity. This is a rare opportunity in this age and in this epoch of our history. This special responsibility is not to discover special rights and privileges for ourselves. It is to enable all our people to share the discipline, the excitement, the rewards of a life of freedom and creative peace—for our own country and for the world!

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