

073-397—October 25, 1973

ANTINEPOTISM LAW

CITY EMPLOYING RELATED PERSONS IN SAME DEPARTMENT

To: Frank B. Watson, Jr., City Attorney, Fort Myers

Prepared by: Sharyn Smith, Assistant Attorney General

QUESTION:

May a city employ the daughter of a police lieutenant as a police patrolwoman when both individuals would serve in the same police department and the patrolwoman would, at various times, be under the direct supervision of her father?

SUMMARY:

A city may employ the daughter of a police lieutenant as a policewoman even though the policewoman would be at times under the supervision of her father. Since neither relative possesses the power to appoint, employ, or promote, the Antinepotism Law is not violated by such employment.

The Antinepotism Law, §116.111, F. S., prohibits the employment or appointment of a relative by a public official. The statute, however, applies only to public officials who have the power to appoint, promote, or recommend for appointment or promotion, persons to public office or employment. Consistent with this interpretation, AGO 071-258 held that a department head or other official who has the appointing power and is not related to a prospective appointee may appoint such person to an office or position even though the prospective appointee is related to an existing officer or employee in the department.

An analogous situation is apparent in the instant case where the father does not possess the appointing power but is an existing employee of the department. No question is presented as to promotion or advancement of the prospective policewoman within the department.

In State *ex rel.* Robinson v. Keefe, 149 So. 638 (Fla. 1933), the court held that a similar Antinepotism Law, being penal in nature, should be strictly construed. There is nothing in §116.111, *supra*, under either a broad or narrow interpretation, that prohibits the employment of a policewoman within a department in which her father also serves as a police lieutenant.

073-398—October 25, 1973

LAW ENFORCEMENT OFFICERS

POWERS OF SPECIAL OR RESERVE POLICEMEN—COMPLIANCE
WITH POLICE STANDARDS BOARD REQUIREMENTS

To: A. O. Folsom, Jr., Public Safety Director, Daytona Beach

Prepared by: George R. Georgieff, Assistant Attorney General

QUESTIONS:

1. May "special policemen" or "police reserve forces" continue to operate in their customary manner, including the carrying of arms and exercising power of arrest, notwithstanding applicable laws of Florida and directives of the Police Standards Board when the appointment of such special or reserve policemen is provided for in the municipal charter?