

CIVIL SERVICE LAW § 58(1-c); VILLAGE LAW §§ 3-300(3), 3-301(3), 3-308(3), 4-400(e).

The mayor may appoint a single member of the board of trustees to be commissioner of the village police department.

July 25, 1995

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P. O. Box 358
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Informal Opinion
No. 95-36

Dear Mr. Heidelberger:

You have asked whether an individual member of the board of trustees may be designated police commissioner with supervisory authority over the village police department. You have explained that the village maintains a police department headed by a paid chief of police. At the village's organizational meeting, traditionally the mayor appoints individual trustees as heads of departments of village government. The mayor has in the past assigned to himself the title of police commissioner.

Your concern is section 4-400(e) of the Village Law which gives the mayor responsibility for supervision of the conduct of the police and other subordinate officers of the village. This is not the only mechanism for supervision of the police department. Several other alternatives are available. Section 3-308 of the Village Law authorizes the board of trustees to establish or abolish a separate board of police commissioners. The board of trustees establishes the composition, duties and responsibilities of the board. Id., § 3-308(3). The board established under this section, however, may be composed of not less than three members, who will perform their duties subject to the approval of the board of trustees.

Alternatively, the appointment of a trustee to serve as the single commissioner to supervise the police department can be accomplished under section 3-300(3) of the Village Law, which authorizes members of the board of trustees to be "single commissioners in charge of village departments except as provided in the zoning article in this chapter". 1985 Op Atty Gen (Inf) 142. Thus, the mayor is authorized to appoint a single member of

the board of trustees to be commissioner of the police department. Village Law § 3-301(3).

In summary, the Village Law establishes three alternative mechanisms for supervision of the police department--by the mayor, a board of commissioners, or by a single trustee serving as commissioner. We note that your police department is headed by a paid chief of police. You should be aware of the provisions of section 58(1-c) of the Civil Service Law concerning the maintenance of that position.

We conclude that the mayor may appoint a single member of the board of trustees to be commissioner of the village police department.

The Attorney General renders formal opinions only to officers and departments of State government. This perforce is an informal and unofficial expression of the views of this office.

Very truly yours,

JAMES D. COLE
Assistant Attorney General
in Charge of Opinions