Major General John S. Anderson  
The Adjutant General  
807 State Office Building  
Indianapolis 4, Indiana

Dear General Anderson:

This is in answer to your recent letter wherein you requested an Official Opinion.

Your question is stated as follows:


"2. Several questions have arisen recently on what was intended as the exact meaning of 'administrative duties,' as used in reference 1 above. This reference indicates that, 'it shall not be interpreted as transferring any of the powers, jurisdiction or duties, other than state administrative duties, of the above named agencies to the office of the Adjutant General.' Request that your opinion include, if possible, a specific listing of the functions delegated to the Adjutant General under the provisions of this Act."

The statutory reference cited in your letter is to the Acts of 1953, Ch. 224, Sec. 1, as found in Burns' (1961 Supp.), Section 45-1906a, which reads as follows:

of the adjutant-general of the state of Indiana for state administrative purposes only.

“This act [§ 45-1906a] shall not be interpreted as transferring any of the powers, jurisdiction or duties, other than state administrative duties, of the above named agencies to the office of the adjutant-general.” (Our emphasis)

It will be noted that Burns' 45-1906a, supra, specifically mentions the following state boards or commissions:

(a) State Soldiers' and Sailors' Monument;
(b) Indiana World War Memorial;
(c) Battle Flag Commission;
(d) Armory Board of the State of Indiana; and
(e) Department of Civil Defense.

The Indiana War Memorials Commission became the successor to the governing bodies of the State Soldiers' and Sailors' Monument, the Indiana World War Memorial and the Battle Flag Commission, by virtue of the Acts of 1957, Ch. 218, as found in Burns' (1961 Supp.), Sections 59-1501 to 59-1537, inclusive. Section 1 of said Act as found in Burns’ 59-1501, supra, provides, in part, as follows:

“There is hereby created a commission to be known as the Indiana War Memorials commission which shall * * * have the powers and perform the duties, as provided in this act * * * Said commission, as such and in such name, may prosecute and defend suits and shall have all other duties, rights and powers incident to the carrying out, and not inconsistent with, the provisions of this act * * *.

“* * * Said commission shall report to the governor through the adjutant general and shall be under the adjutant general for administrative supervision.” (Our emphasis)

The only reference in said act to the Adjutant General is that which is shown above.
An examination of the statutes, hereinabove cited, in connection with the creation and operation of each of the agencies designated in Burns’ 45-1906a, supra, indicates that provisions have been made for each such agency to operate on its own organizational basis. The Legislature in 1953, emphasized that Burns’ 45-1906a, supra, was “not to be interpreted as transferring any of the powers, jurisdiction or duties, other than state administrative duties to the office of the adjutant-general.” (Our emphasis)

The present law pertaining to the Armory Board of the State of Indiana is a part of the Indiana Military Code, as found in the Acts of 1953, Ch. 187, Secs. 208 to 229, inclusive, as found in Burns’ (1961 Supp.), Sections 45-1908 to 45-1929, inclusive. Section 208 of said Act, designates the Adjutant General as an ex officio member of said board and Section 220 of the Act provides that a copy of the annual report of the state armory board be “furnished the adjutant-general for publication in the annual report of the adjutant-general’s department.” No other reference is made to the Adjutant General in the above part of the Indiana Military Code.

A Department of Civil Defense in Indiana was created by the Acts of 1951, Ch. 268, known as the “Civil Defense Act of 1951.” The provisions of this act with amendments thereto are found in Burns’ (1952 Repl., 1961 Supp.), Section 45-1516 et seq. The Acts of 1953, Ch. 268, as found in Burns’ (1961 Supp.), Sections 45-1563 to 45-1565, inclusive, make provisions for interstate compacts in connection with civil defense. The legislative intent as to the status of civil defense is shown in Section 5 of the Civil Defense Act of 1951, being Burns’ 45-1520, supra, which states, in part, as follows:

“(a) There is hereby created within the executive branch of the state government a ‘department of civil defense,’ hereafter referred to as the ‘department,’ with an ‘executive director,’ hereafter referred to as the ‘director,’ who shall be the executive head thereof.”

There is no mention of the Adjutant General in any of the civil defense acts. The only mention of the Adjutant General in connection with civil defense is that found in Burns’ 45-1906a, supra, wherein the Department of Civil Defense is
In order to answer your question it is necessary to determine what the Legislature intended by the use of the words "state administrative purposes" and "state administrative duties" as they are set forth in Burns' 45-1906a, supra. In a consideration of this section in my 1955 O. A. G., pages 53, 54, No. 17, I defined these words of limitation as constituting merely a transfer of "ministerial duties." That definition was proper and sufficient for the questions serving as the basis for the 1955 Opinion. However, the subsequent enactment of the Acts of 1957, Ch. 218, Sec. 1, supra, together with the statements in the Budget Reports have given additional indicia relative to the intent of the Legislature. In addition, your question seeks a more specific designation of the intended purposes and duties prescribed by Burns' 45-1906a, supra.

The following rules of statutory construction set forth in my 1956 O. A. G., pages 202, 205, No. 45, are equally in point herein:

"The statutory rule of construction is considered that courts will look to the general purposes and scope of a statute to determine the legislative intent.

"City of Indianapolis v. Evans (1940), 216 Ind. 555, 567, 24 N. E. (2d) 776;


"The rule of statutory construction is also considered that in ascertaining the legislative intent as to a statute, the courts may take into consideration other Acts in pari materia, whether passed before or after the Act in question.

"Sherfey v. City of Brazil (1937), 213 Ind. 493, 497, 13 N. E. (2d) 568."

Definitions of the words "administrative," "supervision" and "supervise" are essential in this determination. The words have been defined as follows:
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administrative “Of or pertaining to administration; esp. management.” Webster’s New International Dictionary, 2d Ed., page 34.

“No precise and invariable definition of the word can be given. Its meaning depends upon the particular facts and circumstances. * * *” 2 C. J. S. Administrative, page 56.

supervise “The word ‘supervise’ definitely relates to acts of others rather than to those of the person doing the supervising. To supervise does not mean to do the work in detail, but to see that it is done. It means to oversee with power of direction. Egner v. States Realty Co., 26 N. W. 2d 464, 471, 223 Minn. 365, 170 A. L. R. 500.” (Our emphasis) 40 Words and Phrases, Perm. Ed. (1961 Supp.), Vol. 40, p. 207.


The Legislature in the Acts of 1957, Ch. 218, Sec. 1, supra, gave further indication of their intent relative to the part to be played by the Adjutant General in connection with the Indiana War Memorials Commission by the use of the following words:

“* * * said commission shall report to the governor through the adjutant general and shall be under the adjutant general for administrative supervision.” (Our emphasis)

While the word “supervision” was inserted only in connection with the Indiana War Memorials Commission [successor to the former State Soldiers’ and Sailors’ Monument, Indiana World War Memorial and Battle Flag Commission], nevertheless, by the rules of statutory construction heretofore cited, the word “supervision” is applicable in clarifying the intent of the Legislature in regard to the other two agencies, namely, the Armory Board of the State of Indiana and the Department
of Civil Defense. The use of the word "supervise" indicates that it was the legislative intent for the Adjutant General in supervising, not to do the administrative work of the respective agencies in detail, but rather to see that such administrative work is properly done. In other words, the Adjutant General has been given the statutory power to oversee the administrative work of the specified agencies with the power of direction to so regulate the work that it is done in accordance with sound business practices and in conformity with the established policies, procedures and regulations required by the State of Indiana.

The State of Indiana Budget Reports indicate that the Indiana War Memorials Commission and the Department of Civil Defense each have their own separate operating budget and each have a separate allotment for personal services to take care of the administration in their respective departments. It is particularly interesting to note that in the Budget Reports for the biennium July 1, 1959 to June 30, 1961, Section C-24 and for the biennium from July 1, 1961 to June 30, 1962, Section B-31, on the first page of each of these reports devoted to the Adjutant General, the following wording is used:

"In addition to these duties, the Legislature has designated that the Department will supervise the administration of the following State agencies:

(a) Civil Defense

(b) Indiana War Memorials Commission * * *

(Our emphasis)

This is a clear indication that the State Budget Committee has considered these agencies to be under the administrative supervision of the Adjutant General. In this connection it is well to note the case of Gross Income Tax Division v. Colpaert Realty Corp. (1952), 231 Ind. 463, 478, 109 N. E. (2d) 415, wherein our Supreme Court said:

"While not controlling, the contemporaneous construction of a statute by those charged with the administration of it is entitled to great weight, and should not be interfered with unless there are very cogent and persuasive reasons for departing from it. * * *"
Therefore, in answer to your question, it is my opinion that it was the legislative intent that the Adjutant General was not to be charged with the accomplishment of the administrative duties, in detail, for the enumerated agencies, but rather that he was given the statutory duty and granted the power to oversee, inspect and supervise administrative operations with the power of direction. The Legislature has not restricted the administrative acts to be performed to any specific listing of duties or functions but rather has delegated to the Adjutant General broad powers to insure the accomplishment of such acts as are necessary to carry out the legislative policies and purposes in conformity with sound business practices and established governmental procedures.

OFFICIAL OPINION NO. 11
January 19, 1962

Hon. William E. Babincsak
State Representative
1856 South River Drive
Munster, Indiana

Dear Representative Babincsak:

This is in answer to your recent request for an Official Opinion concerning the rights of towns to employ auxiliary policemen.

Your questions, based on your letter and our subsequent conversation, may be stated as follows:

1. The right of a town having a Board of Metropolitan Police Commissioners to employ auxiliary police officers, without tenure rights, to supplement the regular police officers, and

2. The power of arrest of auxiliary police officers.

In our conversation you advised that your inquiry concerned towns, that each of these towns now has a Board of Metropolitan Police Commissioners and that it is the desire of such towns to appoint auxiliary police officers for part-time services.