



*Lynn Fitch*  
**ATTORNEY GENERAL**  
OPINIONS AND POLICY

May 10, 2024

A. Norris Hopkins, Jr., Esq.  
Attorney, Stone County Board of Supervisors  
Post Office Box 1510  
Gulfport, Mississippi 39502-1510

Re: Administration of Oath of Office

Dear Mr. Hopkins:

The Office of the Attorney General has received your request for an official opinion.

**Questions Presented**

1. Is a presiding municipal court judge considered one that may administer oaths to elected officials pursuant to Mississippi Code Annotated Section 11-1-1?
2. If the answer to question number one is yes, would the answer be different if the municipal court judge presided over a court in the adjoining county?
3. May the city of Gulfport judge, who is also the chief magistrate, swear in the newly elected sheriff of Stone County?
4. May a municipal court judge of an adjoining county swear in the newly elected sheriff of Stone County if that municipal court judge is a notary public?
5. May a municipal court judge from Harrison County, who is also the police justice for the city of Gulfport, swear in the newly elected sheriff of Stone County?
6. May the newly elected sheriff of Stone County, after being administered the oath of office pursuant to Section 11-1-1, administer the oath to his deputies in keeping with Section 19-25-19?
7. Is the sheriff of Stone County, after receiving the oath of office pursuant to Section 11-1-1, considered an individual authorized under Section 11-1-1 to administer oaths under Section 11-1-1?

### **Brief Response**

1. Yes. A municipal judge is authorized to administer oaths pursuant to Section 11-1-1.
2. A municipal judge may administer an oath to an elected official from an adjoining county.
3. Yes. Both municipal judges and chief magistrates of a city are authorized by Section 11-1-1 to administer oaths of office or swear in elected officials no matter where they are located.
4. Yes. Both municipal judges and notaries public are authorized by Section 11-1-1 to administer oaths of office or swear in elected officials.
5. Yes. See Response 2 as well as Section 21-23-1(stating that “police justice” means municipal judge).
6. No. A sheriff is not authorized by Section 11-1-1 to administer oaths.
7. No. A sheriff is not authorized by Section 11-1-1 to administer oaths.

### **Applicable Law and Discussion**

Pursuant to Section 25-1-9, “[t]he oath of office may be taken by all officers before any person authorized by law to administer an oath.” With respect to who is authorized to administer oaths, Section 11-1-1 provides:

A judge of any court of record, clerk of such court, court reporter of such court, master, member of the board of supervisors, justice court judge, notary public, mayor, or police justice of a city, town or village, clerk of a municipality, and any officer of any other state, or of the United States, authorized by the law thereof to administer oaths, the judge of any court of record, or the mayor or chief magistrate of any city, borough or corporation of a foreign country; may administer oaths and take and certify affidavits whenever the same may be necessary or proper in a proceeding in any court or under any law of this state, or for the purpose of taking depositions of any party of interest, or witnesses of any suit pending before any such court, or for the perpetuation of testimony, as provided in Section 13-1-57, Mississippi Code of 1972.

Further, “[w]herever the words ‘police court’ or ‘police justice’ appear in the laws of this state, they shall mean municipal court or municipal judge, respectively.” Miss. Code Ann. § 21-23-1. Thus, a municipal judge may administer oaths of office to elected officials pursuant to Section 11-1-1.

You ask several questions regarding the ability of an individual to administer the oath of office or swear in a public official from an adjoining county. There is nothing in Section 11-1-1 restricting its application within the same county or municipality. It is, therefore, the opinion of this office that a person authorized to administer oaths may swear in a public official from another county or

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municipality. *See* MS AG Op., *Greenlee* at \* 1 (Aug. 18, 1993) (stating “that a criminal affidavit can be acknowledged by any person authorized by law to administer oaths. This would include, in our opinion, the court clerk from another jurisdiction or a notary public.”).

In your request, you also cite Section 19-25-19, which grants sheriffs the power to appoint deputy sheriffs and further requires deputy sheriffs to take an oath of office. Notably, this statute does not confer on the sheriff the authority to administer the oath. A sheriff is not listed in Section 11-1-1 as an individual authorized to administer oaths. Thus, a sheriff does not have the authority to personally swear in his or her deputies.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Beebe Garrard*

Beebe Garrard  
Special Assistant Attorney General

OFFICIAL OPINION